

**Handbook**  
**For**  
**New Jersey Assessors**



**CHRIS CHRISTIE, *Governor***  
**FORD M. SCUDDER, *Acting State Treasurer***

**Issued by**  
**Property Administration – Local Property**  
**Division of Taxation – Department of the Treasury**  
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## Chapter 11 Tax Appeals

### 1101. The Right of Appeal.

Taxpayers and taxing districts have the right to appeal disputed property valuations. An appellant may not bypass steps in the appeal process, such as filing with the N.J. Superior Court before bringing the appeal to the County Board of Taxation and/or the Tax Court of New Jersey. In unusual cases, the courts have relaxed this rule. An appeal may stop at any level in the process, if both parties are satisfied with the judgment.

#### **REFERENCES:**

**N.J.S.A. 54:3-21 et seq.**

**N.J.S.A. 54:51A-1 et seq.**

**N.J.A.C. 18:12A-1.6 et seq.**

**F.M.C. Stores Co. v. Morris Plains, 195 N.J. Super. 373 (App. Div. 1984) superseded by statute as stated in Majestic Construction Co. v. Deptford Township, 14 N.J. Tax 332 (Tax Court 1994).**

**County of Bergen v. Paramus, 79 N.J. 302 (1979).**

**Pleasantville Taxpayers v. City of Pleasantville, 115 N.J. Super. 85 (App. Div. 1971); cert. denied by 59 N.J. 268 (1971).**

**Switz v. Middletown Township, 40 N.J. Super. 217 (App. Div. 1956) cert. granted by 22 N.J. 222 (1956) modified by 23 N.J. 580 (1957).**

**University Cottage Club of Princeton v. Princeton Borough, 26 N.J. Tax 185 (Tax Court 2011).**

### 1101.01 Timeline for Property Valuation by Municipal Assessor and for Revision of Assessor's Property Value Determinations.

N.J.S.A. 54:4-23 provides, "All real property shall be assessed to the person owning the same on October 1 in each year. The assessor shall ascertain the names of the owners of all real property situate in his taxing district, and, after examination and inquiry, determine the full and fair value of each parcel of real property situate in the taxing district at such price as, in his judgment, it would sell for at a fair and bona fide sale by private contract on October 1 next preceding the date on which the assessor shall complete his assessments, ...."

N.J.S.A. 54:4-35 requires that, "The assessor shall determine his taxable valuations of real property as of October 1 in each year and shall complete the preparation of his assessment list by January 10 following, on which

date he shall attend before the County Board of Taxation and file with the board his complete assessment list,..."

N.J.S.A. 54:4-38 further requires that, "Every assessor, at least ten days before filing the complete assessment list and duplicate with the County Board of Taxation, ... shall notify each taxpayer of the current assessment and preceding year's taxes and give public notice by advertisement in at least one newspaper circulating within his taxing district of a time and place when and where the assessment list may be inspected by any taxpayer for the purpose of enabling the taxpayer to ascertain what assessments have been made against him or his property and to confer informally with the assessor as to the correctness of the assessments, so that any errors may be corrected before the filing of assessment list and duplicate..."

N.J.S.A. 54:4-38.1 directs, "Every assessor, prior to February 1\*\*, shall notify by mail each taxpayer of the current assessment and preceding year's taxes. Thereafter, the assessor or County Board of Taxation shall notify each taxpayer by mail within 30 days of any change to the assessment. This notification of change of assessment shall contain the prior assessment and the current assessment. The director shall establish the form of notice of assessment and change of assessment. Any notice issued by the assessor or County Board of Taxation shall contain information instructing taxpayers on how to appeal their assessments."

Once the assessment list is filed with the County Tax Board on or before January 10, the assessor no longer has the authority to make any changes. The assessor can, however, informally apply to the tax board any time prior to its final certification of the list to request that an assessment be amended. If an error is discovered after the list has been certified, a formal tax appeal would be necessary to obtain a change in assessment for the year at issue.

As per N.J.S.A. 54:3-21, an appeal to the county board must be filed by April 1\*\* or 45 days from the date the Notification of Assessment is mailed by the taxing district, whichever is later.\* Taxpayers who receive a Notification of Change in Assessment must appeal within 45 days of issue date of the notice. Often the process of stipulation can eliminate the need for a formal appeal hearing. After an appeal is filed with the County Board of Taxation and before judgment is rendered, the assessor may offer a taxpayer a settlement stipulation if he agrees that the assessment should be other than that listed. The assessor may not finalize a stipulation of settlement of tax appeal. Stipulation agreements must be approved by the

municipal attorney and the County Tax Board. If the board approves the stipulation, a judgment is issued in accordance with the terms of the agreement. If the board disapproves the stipulation, the taxpayer is advised of the disallowance and a formal appeal hearing is scheduled.

\*For districts where a district-wide revaluation or reassessment has been implemented the appeal deadline is on or before May 1.

As prescribed by N.J.S.A. 54:3-27, “A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the total of all taxes and municipal charges due, up to and including the first quarter of the taxes and municipal charges assessed against him for the current tax year...” Under the statute, as amended by Chapter 208, Public Law 1999, the County Tax Board may relax the tax payment requirement and fix the terms for payment of the tax.

Where a taxpayer is successful in appealing the assessment on his property, the municipality must refund any excess taxes paid with interest from the date of payment at a rate of 5% per annum, less any amount of taxes and interest applied against delinquencies, within 60 days of the date of final judgment as per N.J.S.A. 54:3-27.2.

**\*\*NOTE:** For Assessment Demonstration Program counties see section [105.04](#) for calendar dates.

## **1101.02 Types of Appeals.**

There are different types of appeals. This chapter deals with appeals of regular property valuations. Here the property’s assessed valuation as it appears on the Tax List for the year is at issue. At appeal, proof of the property’s market value is required. Other types of appeals, such as those of Added or Omitted Assessments and of equalization, are discussed in their respective chapters.

### **REFERENCES:**

**N.J.S.A. 54:3-21 et seq.**

**N.J.S.A. 54:1-34**

**N.J.S.A. 54:4-63.11 et seq.**

**N.J.S.A. 54:4-63.13 et seq.**

**N.J.S.A. 54:4-63.39 et seq.**

## **1101.03 Appeals of Regular Valuation Assessments.**

A taxpayer may file an appeal:

1. if he is aggrieved by the assessed value on his own property,
2. if he believes that he is discriminated against by the assessed value on any other property in the same county.

A taxing district may file an appeal:

1. if it believes that it is discriminated against by an assessed value of any property in the taxing district,
2. if it believes that it is discriminated against by an assessment in any other taxing district in the county.

**REFERENCES:**

**N.J.S.A. 54:3-21**

**1101.04 Appeals of Added Assessments.**

Taxpayers and taxing districts may file appeals from Added Assessments.

**REFERENCES:**

**N.J.S.A. 54:4-63.11**

**1101.05 Appeals of Omitted Assessments.**

Taxpayers and taxing districts may file appeals from Omitted Assessments.

**REFERENCES:**

**N.J.S.A. 54:4-63.13**

**N.J.S.A. 54:4-63.39**

**1101.06 Appeals of Denied Property Tax Benefits.**

Taxpayers may file appeals from denials of veterans, surviving spouses/civil union and domestic partners of veterans/or servicepersons deductions; senior citizen/disabled persons/ surviving spouses/civil union partners deductions; disabled veterans/surviving spouses/surviving civil union and domestic partners of disabled veterans/servicepersons property tax exemptions; educational, religious, charitable exemptions and others; certain abatements and partial exemptions.

**REFERENCES:**

**N.J.S.A. 54:4-8.21 and 4-8.49**

**1101.07 Appeals of the County Equalization Table.**

Taxpayers and taxing districts may file appeals from the County Equalization Table with the Tax Court.

**REFERENCES:**

**N.J.S.A. 54:3-18 and 54:1-34**

**1101.08 Appeals of the Table of Equalized Valuations.**

Taxing districts may file appeals from the Director's Table of Equalized Valuations with the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq.

**REFERENCES:**

**N.J.S.A. 54:1-35.4**

**N.J.S.A. 54:51A-4 et seq.**

**1102. Municipal Assessor as an Informal Appeal Agency**

The municipal assessor is an informal appeal agency. It is recommended that assessors encourage taxpayers who are not satisfied with their assessments to consult with them before filing a formal appeal. It is possible that an error was made. Sometimes, the method of assessment can be explained satisfactorily. Many potential tax appeals can be settled through informal consultation with offer of and entry into a stipulation without a formal hearing before the County Board of Taxation.

**1102.01 Informal Review before filing Assessment/Tax List.**

Ten days before filing the complete Tax List and Duplicate on January 10 of the tax year, the assessor is required to give notice by newspaper advertisement when and where taxpayers may inspect assessments for the coming year. If a taxpayer discovers an error in the Tax List, the assessor can correct it before the List is filed with the County Board of Taxation on

January 10. This eliminates filing a formal tax appeal, and saves the taxpayer and the assessor considerable time and effort later. Assessors should regard this period of taxpayer review as an opportunity to eliminate errors and to promote good public relations.

**REFERENCES:**  
**N.J.S.A. 54:4-38**

**1102.02 Assessor Requests after filing the Assessment/Tax List.**

After the Tax List and Duplicate are filed with the County Board of Taxation, the assessor no longer has the authority to change the List. However, the assessor may informally request the County Board change the Tax List prior to its formal certification by the Board. The County Board of Taxation is authorized to make changes to the Tax List it deems appropriate, prior to certification. If an error is discovered after the Tax List is certified, the filing of a formal appeal to correct the error is needed.

**REFERENCES:**  
**N.J.S.A. 54:4-55 and 54:3-15**  
**Local Property Tax Bureau News, June-July, 1959, p.1.**

**1102.03 Forms.**

No formal request form is prescribed by law for taxpayers who request that the assessor change their assessed values. Some assessors develop their own forms for this purpose. Such local request forms are used in gathering information for reviewing the assessment, and provide a standardized record for later reference. However, if the result of the conference is a change in assessment the assessor should keep a written record of facts in the municipal file as to why the assessment was modified.

## **1103. The Municipal Assessor's Role In an Appeal.**

### **1103.01 Before the Hearing.**

Before the hearing assessors should, review the taxpayer's basis for a complaint and determine if it is a valuation issue or an eligibility issue related to deductions, exemptions or farmland.

For valuation issues, is the information submitted by taxpayer accurate? Are the comparables or income and expenses representative of the market and truly comparable? Is taxpayer's request reasonable and does the taxpayer have a valid argument?

For eligibility issues, has the taxpayer provided supplemental information to support eligibility related to deductions, exemptions or farmland? Is taxpayer's request reasonable and does the taxpayer have a valid argument?

In every appeal, the assessor should be prepared to present documents of the facts and be prepared to defend his decisions. The assessor should:

- Review the Property Record Card for accuracy and completeness;
- Gather comparable sales for a Sales Comparison Approach;
- For rental properties gather income and expense data of similar use properties;
- Inspect and photograph the subject property and comparables;
- Establish the "Fair Market Value" to be presented at the appeal;
- Obtain any additional evidence needed to successfully defend the assessor's position;
- Determine if the assessment is within the common level limits after establishing the market value of the property;



- Is a settlement stipulation justified? Is the assessment above the upper limit or are there other reasons?
- If so, request municipal attorney to prepare stipulation documents and obtain all required signatures.

**1103.02 If the Appeal Goes to a Hearing.**

If appeal is going to a hearing, seven days prior to the hearing date, the assessor must provide the taxpayer all evidence to be presented. In advance of the hearing, assessors should meet with the municipal attorney to discuss strategy and develop questions to be asked of the appellant and/or their experts. At the hearing, the assessor should:

- Follow the advice of municipal attorney;
- Request that municipal attorney stand on the assessment if the taxpayer has not provided evidence or failed to prove lower value;
- Encourage the municipal attorney to make motions for dismissal for failure to pay municipal charges, failure to provide Chapter 91 income statements, etc.;
- Present oral testimony, give statement of Market Value, speak clearly, concisely and with sufficient volume;
- Present a comparable sales adjustment grid or income approach and provide pictures of subject and comparables;
- Commercial Properties as Investments typically require reliance on the Income Approach to Value and should be presented accordingly. The Income Approach is the primary method accepted by the courts to establish market value for commercial properties The assessor should:
  - Estimate potential gross income using market (economic) rents.
  - Deduct for vacancy and rent loss estimated from surveys of similar use properties.

- Add any other miscellaneous income to get effective gross income.
- Determine allowable expenses from those supplied by the owner and deduct from the effective gross income to get net operating income. Allowable expenses include management, salaries, utilities, supplies, repairs and maintenance, reserves for replacement and property taxes if not included in the cap rate.
- Select the proper capitalization rate using the Band of Investment method comprised of a mortgage component and an anticipated yield component. Or if enough information is available one derived from the market.
- Capitalize the net operating income into an estimate of value.

Always be professional in your demeanor and courteous to taxpayers. Avoid emotion, stick to the facts and remember that the appeal process is not personal, it is strictly business.

#### **1104. Assessor to Defend Appeals.**

Although the legal burden of proof is upon an appellant, assessors should provide a vigorous defense of their assessments assuming they are valid. A valid assessment should be defended even where the dollar amount is insignificant. If valid assessments are defaulted through lack of defense, the uniformity of the Tax List is jeopardized and the appeal may become precedent. Where the assessor is convinced that an incorrect judgment has been rendered by an appellate agency, he should take the initiative to recommend to the municipal governing body that a further appeal be made. The estimated chances for a favorable judgment must be considered.

#### **1104.01 Review of Assessments in Preparing Defense.**

As soon as the assessor is notified that an appeal was filed, he should review the appraisal and the assessment on the subject property and on any comparable properties which are cited in a discrimination appeal. This should include an inspection of the property in order to make sure that the Property Record Card is accurate and that the property is classified and appraised correctly. Some County Boards encourage the assessor to prepare a written summary of his defense, particularly the property's statistical information. The preparation of such a report is good practice; assembling and presenting all information helps the assessor make a logical defense of value. The assessor should bring to the hearing all pertinent records concerning the subject and any comparable properties cited for discrimination appeals. The use of photographs, charts, and records is particularly effective. Copies of Property Record Cards should be provided for the appellate agency. A written report concerning the value of each property under appeal may be presented by the assessor to the hearing body. The assessor should be prepared to give testimony to substantiate his assessment, and to assist with cross examination of opposing witnesses, both as to the accuracy of their testimony and to its completeness and adequacy.

#### **1104.02 Legal Counsel.**

The municipal attorney can help the assessor with his own testimony and can cross-examine opposing witnesses. However, unless the assessor does his own work well, no attorney will be able to provide an adequate defense of the assessments. The assessor should make sure that his attorney is aware of all the facts before the hearing. In complicated cases, or where the valuation is significant the municipal governing body may retain special legal counsel having a wider experience or particular expertise such as with commercial property appeals.

### **1104.03 Expert Witnesses.**

The assessor, by virtue of his office, is considered an expert witness. However at times, appraisal experts are needed to substantiate the assessor's opinion. Usually, if a case is important enough to bring before Tax Court the expense of retaining expert witnesses can be justified. An "expert witness" should prepare himself by actually inspecting and appraising the property.

### **1105. The County Board of Taxation.**

All 21 County Boards of Taxation, established in 1906 by State law, have the hearing of appeals as one of their principal duties.

#### **REFERENCES:**

**N.J.S.A. 54:3-1 et seq.**

### **1105.01 Filing Deadline for Petitions of Appeal.**

The word "filed" has been interpreted by the courts to mean received in the office of the County Board of Taxation by April 1. A postmark of a mailed petition is not sufficient. Appeals by taxpayers or taxing districts to the County Board of Taxation must be filed by April 1 of the tax year, or 45 days from the date the bulk mailing of Notification of Assessment is completed in the taxing district, whichever is later, on petition forms promulgated by the Director, Division of Taxation. (See, [http://www.state.nj.us/treasury/taxation/pdf/other\\_forms/lpt/petappl.pdf](http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/petappl.pdf).) If the last day for filing falls on a Saturday, Sunday, or legal holiday, then the filing deadline is the first business day thereafter. The deadline for filing a tax appeal is extended beyond April 1 whenever a municipality has not completed the bulk mailing of Notices of Assessment at least 45 days prior to April 1. The extension is based on the date of the certification of the bulk mailing of Notices filed with the County Board of Taxation. The deadline for that municipality, and only that municipality, is to be

extended as much as is needed to provide a 45-day period in which to file a tax appeal. If the assessed valuation of the property being appealed exceeds \$1,000,000, the taxpayer or taxing district may file a petition of appeal directly with the Tax Court. An appeal to the Tax Court must also be filed by April 1\* of the year in question or within 45 days of the taxing district's bulk mailing of the Assessment Notices. For taxpayers and taxing district's where a municipal wide reassessment or revaluation was implemented the filing deadline for appeals is May 1.

\*For residents of Monmouth County the appeal filing deadline is January 15.

**REFERENCES:**  
**N.J.S.A. 54:3-21**

**1105.02 Procedures for Appeal Petition, Proof of Service.**

Individual petitions of appeal must be filed for each assessed property. Where an appeal involves more than one property, separate petitions of appeal must be filed for each individual property separately assessed, unless permission from the County Board of Taxation is obtained to use a Multiple Appeal Schedule. Commercial , industrial property or multi-unit dwelling (more than 4-family) appeals must include, an itemized statement showing all sources of income and all expenses for the most recently completed accounting year and for any additional tax years requested by the County Tax Board.

A. Discrimination appeals. Where a taxpayer alleges discrimination other than the Common Level in his assessment it must indicate so on the petition of appeal. Comparable sales of other properties used to establish value must be affixed by a schedule to the petition of appeal and to the copy, giving the block and lot number, the assessed valuation as shown in the current Tax List and the sale price of each comparable property.

B. Proof of Service - A copy of each petition must also be filed with the Clerk of the taxing district, who is then required to notify the assessor, tax collector and such other municipal officials as the governing body directs. Proof of service upon the Municipal Clerk must be verified by an affidavit of the taxpayer or his representative. If the taxpayer is a corporation, the petition of appeal must be prepared and filed by a New Jersey attorney-at-law. Proof of filing may be by receipt stamp of the taxing district or affidavit of service. In O'Rourke v Fredon, the Tax Court denied the Township of Fredon's motion to dismiss twenty-six separate complaints filed by various plaintiffs for failure to comply with the provisions of N.J.S.A. 54:3-21, N.J.A.C. 18:12A-1.6(j), and the rules and regulations of the Sussex County Board of Taxation. The Court held that neither N.J.S.A. 54:3-21 nor N.J.A.C. 18:12A-1.6 (j) imposes a strict April 1 deadline for service of a petition of appeal upon the assessor or Municipal Clerk; to hold otherwise would in effect require the Court to add language to N.J.S.A. 54:3-21 and N.J.A.C. 18:12A-1.6 (j). The Court found that the County Board overstepped its authority when it promulgated its own rule requiring an April 1 postmark deadline for service upon the Municipal Clerk and assessor.

**REFERENCES:**

**N.J.S.A. 54:3-21**

**N.J.A.C. 18:12A-1.6 and 12A-1.7(d)**

**O'Rourke v. Township of Fredon, 25 N.J. Tax 443 (Tax Court 2010).**

**Mayfair Holding Corp. v. North Bergen, 4 N.J. Tax 38 (Tax Court 1982).**

**Stack v. P.G. Garage, 7 N.J. 118 (1951).**

**Hackensack v. Rubinstein, 37 N.J. 39 (1962).**

**Danis v. Middlesex County Board of Taxation, 113 N.J. Super. 6 (App. Div. 1971).**

**Brott Realty, Inc. v. Monmouth County Board of Taxation, N.J. Superior Court, App. Div., 1972 (unreported opinion).**

**1105.03      Petition of Appeal Form.**

There is a standard Petition of Appeal approved by the Director of the Division of Taxation, Form A-1. A Comparable Sales Analysis Form, A-1 Comp. Sale, has also been developed to assist appellants in organizing comparable property sales as proof of value.

[http://www.state.nj.us/treasury/taxation/pdf/other\\_forms/lpt/a1compsales.pdf](http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/a1compsales.pdf)

**REFERENCES:**

**N.J.S.A. 54:4-34 as amended by P.L. 1979, c. 91**

**N.J.A.C. 18:12A-1.7(d) and 12A:1-8**

**Lucent Technologies, Inc. v. Township of Berkeley Heights, 405 N.J.**

**Super. 257 (App. Div. 2009), appeal granted by 199 N.J. 126 (2009) reversed by, in part, remanded by 201 N.J. 237 (2010).**

**Ocean Pines, Ltd. v. Point Pleasant, 112 N.J. 1 (1988).**

**1105.04      Filing Fees.**

Upon a taxpayer's filing a Petition of Appeal a fee must be paid. The amount of fee depends upon the assessed valuation of the property. The fees to be charged are:

Less than \$150,000	\$ 5.00
\$150,000 or more but less than \$500,000	\$ 25.00
\$500,000 or more but less than \$1,000,000	\$100.00
\$1,000,000 or more	\$150.00

1. For appeals of only the property's classification, \$25 is charged for each reclassification.
2. For appeals of both the property's assessed valuation and the classification, the fee applies in accordance with the assessed valuation of the property, plus a fee of \$25 for reclassification.
3. For appeals other than assessed valuation, property classification, or a combination of these two, the full filing fee is \$25.
4. For Added Assessment appeals the fee is based upon the apportioned valuation on the Added Assessment List (i.e. the prorated assessment).

5. No filing fee is charged for appeals from a denial of a veteran's property tax deduction; a veteran's surviving spouse/civil union partner/domestic partner deduction, a senior/disabled person, surviving spouse/civil union partner/domestic partner, property tax deduction, a property tax exemption for a disabled veteran or a surviving spouse/civil union and domestic partner of a disabled veteran.
6. Where the County Board of Taxation permits the filing of one petition of appeal for more than one property, the fee is the amount which would have been payable had individual petitions of appeal been filed separately for each parcel.

The County Tax Administrator is responsible for all fees paid and transmits all fees to the County Treasurer.

The filing fees are fixed by law and are to be used exclusively to modernize County Tax Boards' record retention capabilities, for costs in recording and transcribing appeal proceedings, for setting forth Memorandums of Judgment and copies, and for paying by the county any salary which is increased by Chapter 499, Laws of 1979.

**REFERENCES:**

**N.J.S.A. 54:3-21.3**

**N.J.A.C. 18:12A-1.6(d) and 1.7**

**In re Appeals of Kents, Inc., 34 N.J. 21 (1961) superseded by statute as stated in Murnick v. Asbury Park, 95 N.J. 452 (1984).**

**Borough of Matawan v. Tree Haven Apartments Inc., 108 N.J. Super. 111 (App. Div. 1969) superseded by statute as stated in Newton Town v. Newton Medical Building, 13 N.J. Tax 462 (Tax Court 1993).**

**Anaconda Co. v. Perth Amboy, 157 N.J. Super. 42 (App. Div. 1978) vacated by, in part, remanded by 81 N.J. 55 (1979).**

**Attorney General Opinion, 95-0146: Use of Filing Fees per N.J.S.A. 54:3-21a, August 11, 1995.**

**Attorney General Opinion: Tax Appeal Filing Fee Account, March 29, 1990.**

**Attorney General Opinion: Tax Appeal Filing Fee Account, May 23, 1988.**



**Attorney General Opinion, M83-5867: Interest from Filing Fees, June 4, 1984.**

**Attorney General Opinion: Appeal Filing Fees, May 7, 1984.**

**Attorney General Opinion: Use of Filing Fees, November 24, 1981.**

**Attorney General Opinion: Use of Filing Fees, October 28, 1981.**

**1105.05 Settlement Stipulations.**

After an appeal is filed with the County Board of Taxation but before judgment is rendered, if appellant and municipality reach an understanding as to the property's assessed valuation, they may enter into a Settlement Stipulation. Any proposed Settlement is required to be in writing, to include the basis for the Settlement, and to be signed by the parties or their attorneys. Stipulation Agreements must also be signed by the municipal attorney. The assessor is not permitted on his own authority to sign a Stipulated Settlement of an assessment appeal. It is to be submitted to the County Board of Taxation for its approval. The Board, in its discretion, may require the parties (appellant or taxing district) or their attorneys to appear before it. If the County Tax Board approves the Stipulation, a judgment will be issued in accordance with the terms agreed upon. The Stipulation certifies to the County Board of Taxation the assessment amount and avoids the formalities of a regular hearing and judgment by the Board. No standardized Stipulation form is prescribed for all counties. However, if the County Board of Taxation disapproves the Stipulation, the parties must be notified of the disapproval and advised of a new hearing date for appeal.

**REFERENCES:**

**N.J.A.C. 18:12A-1.9(i).**

**1105.06 Appeal Discontinued.**

An appellant may withdraw his appeal at any time before a judgment is rendered by the County Board of Taxation. No standardized withdrawal form is prescribed for all counties.

**1105.07 Hearing Notices.**

The County Board of Taxation must give at least 10 days notice to both the appellant and the taxing district as to the time and place of a hearing. Notification by mail is sufficient. Some Boards maintain a practice of notifying taxing districts immediately after the April 1 filing deadline of all appeals received for their taxing districts. This allows the taxing district time to obtain copies of petitions and prepare a defense.

**REFERENCES:**

**N.J.S.A. 54:3-21 and 3-22**

**N.J.A.C. 18:12A-1.9 (b)**

**Jersey City v. Division of Tax Appeals in the State Department of Taxation and Finance, 5 N.J. Super. 375 (App. Div. 1949) affirmed by 5 N.J. 433 (1950).**

**Local Property Tax Bureau News, June-July, 1959, p.1.**

**1105.08 Hearings.**

The procedures for County Tax Board hearings are set forth in N.J. Administrative Code Rules for County Boards of Taxation promulgated by the Director of the Division of Taxation. The Board has the right to compel the attendance of witnesses, to require books and records to be produced, and to examine witnesses under oath. An individual may be subject to contempt proceedings should he fail to comply with County Board directives. An individual making a false statement under oath before the Board may be guilty of perjury.

**REFERENCES:**

**N.J.S.A. 54:3-22 to 3-25**

**N.J.A.C. 18:12A-1.9 and 12A-1.10**

**TAX APPEAL WORKSHEET**

Tax payer name	DISTRICT
Tax payer address	BLOCK / LOT
Tax payer city, state zip	QUAL / CLASS
	LOCATION
	APPEAL #

ON:	AT:		
ASSESSMENT	\$	DIR RATIO	%
L.L. RATIO	%	U.L. RATIO	%
L.L. ALLOW	%	U.L. ALLOW	%
VALUE RANGE	\$	----->	
LAST SALE DATE AND AMOUNT	\$		
TAX MAP	YEAR BUILT	ZONING	LAND DESC.      BLDG DESC.      BLDG CLASS

Enter the date of the disposition

TAXPAYER'S OPINION OF TRUE VALUE: \_\_\_\_\_

HEARING NOTES:      TAXPAYER      \*\*\*\*\*      MUNICIPALITY

   \*\*\*\*\*

   \*\*\*\*\*

   \*\*\*\*\*

   \*\*\*\*\*

   \*\*\*\*\*

COMMISSIONER'S TRUE VALUE DETERMINATION: \_\_\_\_\_

DOES THE TRUE VALUE FALL WITHIN THE ALLOWABLE VALUE RANGE?      YES      NO

IF THE ANSWER IS YES, NO CHANGE IS REQUIRED.

IF THE ANSWER IS NO, CALCULATE THE NEW ASSESSMENT:

_____	X	%	100	=	_____
(TRUE VALUE DETERMINATION)	X	(RATIO / 100)		=	JUDGMENT

	ASSESSMENT	NEW ASSESSMENT
LAND	\$ _____	\$ _____
IMPROVEMENT	\$ _____	\$ _____
ABATEMENT	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____
PRORATED MO	\$ _____	\$ _____

CIRCLE ONE:      REDUCTION      INCREASE      NO CHANGE

DISPOSITION / JUDGMENT CODE: \_\_\_\_\_

DATE OF DISPOSITION: \_\_\_\_\_

COMMISSIONER'S VOTES:      XX      XX      XX      XX      XX

Instructions for the Tax Appeal Worksheet	
-	Enter the taxpayer's name and address in the upper left corner
-	Enter the District, Block/Lot, Qual/Class, Location and Appeal Number in the upper right corner
-	Enter where and what time the hearing will be held
-	Enter the current assessment, the Director's Ratio, the upper and lower level ratios and the upper and lower level allowed
-	Using the upper and lower level allowed, you can enter the value range
-	Enter the last sale date and amount
-	Enter the tax map, year built, zoning, land description, building description, and building class
-	Enter the taxpayer's opinion of true value
-	Enter hearing notes for the taxpayer and municipality
-	Enter the commissioner's true value determination
-	Enter whether or not the commissioner's true value determination falls within the value range described above
-	If the commissioner's true value determination does not fall within the value range described above, calculate the new assessment
-	To calculate the new assessment, multiply the commissioner's true value determination by the director's ratio divided by 100.
-	This will give you the new judgment.
-	Enter the old assessment followed by the new assessment
-	Circle whether this appeal resulted in a reduction, increase or no change in the assessment.
-	Enter the disposition judgment code
-	Enter the date of the disposition
-	Enter the initials of the commissioner's that voted on this appeal

**1105.09 Payment of Taxes Pending Appeal.**

A taxpayer who files an appeal from his property's assessed value is required to pay the tax collector of the taxing district all taxes and municipal charges due up to and including the first quarter of the taxes and municipal charges assessed for the current tax year. If at the time of the hearing taxes are not paid, the taxing district may move before the County Board of Taxation for a dismissal of the appeal. However, the County Tax Board may relax the tax payment requirement and fix the terms for tax payment in the "interest of justice." The tax payment requirement does not apply where qualification for exemption is the subject for appeal, for

Farmland Qualified (3B), and other exemptions designated as Class 15D, E and F (see N.J.S.A. 54:4-52).

**REFERENCES:**

**N.J.S.A. 54:3-27 as amended by P.L. 1999, c 208**

**N.J.S.A. 54:4-52 as amended by P.L. 1995, c. 345**

**N.J.S.A. 54:4-66 as amended by P.L. 1997, c. 99**

**N.J.A.C. 18:12A-1.6(d)**

**Morris-Sussex Area Co., Boy Scouts v. Hopatcong Borough, 15 N.J. Tax 438 (Tax Court 1996).**

**LeCross Associates v. City Partners, 168 N.J. Super. 96 (App. Div. 1979), cert. denied by 81 N.J. 294 (1979).**

**Memorandum to All County Boards of Taxation from Sidney Glaser, Director, Division of Taxation: August 30, 1978.**

**1105.10 Representation before the County Tax Board.**

A taxpayer may represent himself at the hearing (pro se). Otherwise the taxpayer must be represented by a member of the bar of the State of New Jersey. This requirement may be waived by the County Board of Taxation in cases of extreme hardship such as old age, illiteracy, etc. If the taxpayer is a corporation, it must be represented by a New Jersey attorney-at-law, unless an attorney from another state is permitted to appear by the Board. The municipal assessor is required to attend any hearings, together with counsel for the taxing district, unless the County Tax Board rules to the contrary. No assessor is permitted to appear before a County Board of Taxation as an expert witness against another assessor or taxing district, except to defend an assessment of his own taxing district. No person may testify as to an assessment at a hearing of the Board unless he has inspected the property.

**REFERENCES:**

**N.J.A.C. 18:12A-1.9(d); 12A-1.9(f); and 12A-1.9(l)**

**Stack v. P.G. Garage, 7 N.J. 118 (1951).**

**Attorney General to all County Boards of Taxation: May 17, 1951.**

## **1105.11 Burden of Proof.**

The courts have held that in appeal proceedings before a County Board of Taxation, the valuation is presumed to be correct and the burden of proving differently is the appellant's. Absent some evidence to the contrary, the County Board of Taxation may dismiss the appeal. A taxpayer's nonappearance at the hearing may result in his appeal being dismissed by the Board. The fact that the burden of proof is the appellant's does not release the taxing district from the responsibility of preparing a good defense of a property's valuation. The assessor or taxing district's representative should be prepared to justify the assessment as though the burden of proof were on the municipality. If the appellant presents sufficient evidence to overcome the burden, the taxing district must rebut such evidence through competent proofs. Where the assessed valuation was determined by the Income Approach, at the hearing the taxing district is required to produce a copy of the Property Record Card for the property under appeal, showing the value computation based on the capitalization of income. If an appellant relies on expert testimony in attempting to prosecute his appeal, three copies of the appraisal must be filed with the County Board of Taxation and one copy served upon the taxing district at least one week prior to the hearing. The appellant has the right to inspect the Property Record Card of the property under appeal at least one week prior to the hearing. The County Tax Board may waive the requirement of a written appraisal.

### **REFERENCES:**

**N.J.A.C. 18:12A-1.9(e); 12A-1.9(g); 12A-1.9(h); and 12A-1.9(k)**  
**City of Passaic v. Gera Mills, 55 N.J. Super. 73 (App. Div. 1959) cert. denied by 30 N.J. 153 (1959).**  
**Texas Eastern Transmission Corp. v. Carteret, 116 N.J. Super. 9 (App. Div. 1970) cert. granted by 58 N.J. 19 (1971) affirmed by Transcontinental Gas Pipe Line Corp. v. Bernards, 58 N.J. 585 (1971).**  
**West Colonial Enterprises, LLC v. City of East Orange, 20 N.J. Tax 576 (Tax Court 2003) affirmed by 21 N.J. 590 (App. Div. 2004).**

**1105.12 Hearings Completed.**

All assessed value appeal hearings before the County Board of Taxation must be completed within 3 months of the last day for filing appeals. However, in the event the Board is unable to hear and determine any appeals within 3 months, the Board may apply to the Director, Division of Taxation to extend the time for hearing and determining appeals. The Director may grant extensions of time where it is shown by the County Board of Taxation that the number of appeals before it is disproportionate to the number of members hearing the appeals, or the number of appeals has increased sufficiently to warrant granting an extension of time. For appeals where an extension is granted, Director, Division of Taxation is to indicate the amount of tax, if any, the taxpayer must pay during the period of extension.

**REFERENCES:**  
**N.J.S.A. 54:3-26.1**

**1105.13 Judgments.**

Judgments of the County Boards of Taxation must be entered on all appeals and kept by the Board as permanent records. N.J.A.C. 18:12A-1.12(6) reads as follows: “The County Board of Taxation should endeavor to send out judgments at the time decided or as soon thereafter as practical, and not hold them until the time for hearing and determining appeals has expired pursuant to N.J.S.A. 54:3-26, as extended by N.J.S.A. 54:3-26.1. Earlier disposition will assist the Tax Court in the processing of its caseload.” The Division of Taxation recommends, despite increases in appeal filings and staff downsizing, that County Boards transmit written judgments to taxpayers, assessors and collectors in a thirty-day timeframe to assist taxpayers gaining more immediate tax relief and to streamline and make uniform the process of issuing written judgments. A written Memorandum of Judgment must be sent to the assessor and the taxpayer setting forth the basis for the judgment. Where the judgment results in a

change in the taxes to be paid a written Memorandum of Judgment is also to be sent to the tax collector. If any party to the appeal believes that the judgment of the County Tax Board is incorrect, it may carry a further appeal to the State Tax Court of New Jersey.

**REFERENCES:**

**N.J.S.A. 54:3-25; 3-26; and 3-26.1**

**N.J.A.C. 18:12A-1.12**

**Memo to County Tax Administrators Re: Timely Issuance of Judgments: Nov 19, 2010.**

**1105.14 Certain Judgments Forwarded to Division of Taxation.**

When any judgment is rendered involving the appeal of a veteran's deduction or a senior/disabled person/surviving spouse/civil union partner's deduction, the County Board of Taxation must, within 10 days of the date of the entry of the judgment, forward a copy to the Division of Taxation, Local Property Tax.

**REFERENCES:**

**N.J.A.C. 18:12A-1.12 (c)**

**1105.15 Binding Effect of Judgment (Freeze Act).**

If no further appeal is made from the judgment of the County Board of Taxation, the assessed value set by the Board is "frozen" for the assessment year and for the next two years. The purpose of this law is to prevent a taxing district from harassing a taxpayer by forcing him to appeal his assessment every year, to receive equitable treatment.

Exception to this "Freeze Act" may be made:

1. if the assessor demonstrates, at appeal to the County Board, that the property value changed since the assessment date; or
2. if a complete revaluation or reassessment of all real property in the taxing district is put into effect.



**REFERENCES:**

**Entenmann's Inc. v. Totowa Borough, 18 N.J. Tax 540 (Tax Court 2000) motion granted by, motion denied by 19 N.J. Tax 505 (Tax Court 2001) affirmed by 2 N.J. Tax 182 (App. Div. 2003).**

**1105.16 Freeze Act- Settlements**

The N.J. Supreme Court held that the Freeze Act is triggered not only by judgments on the merits, but by judgments based on settlements. The High Court noted that upon a settlement of an appeal, the Freeze Act may be invoked at the exclusive option of the taxpayer, but not at the option of the municipality. Although the municipality has no authority to waive application of the Freeze Act, it can negotiate with the taxpayer who would agree to waive the Freeze Act as a condition for settlement.

1. Stipulated Settlement of County Board Appeal.

In accordance with the *Kentile* decision, the County Board, at the option of the taxpayer, may enter a stipulated judgment for that particular tax year. The stipulated judgment would have an effect for that year only and would not trigger the Freeze Act for any of the two subsequent tax years. After entry of said judgment, the assessor would be free to reflect a different property value in subsequent year's Tax Lists.

2. County Board Judgments Which Are Further Appealed = No Freeze Act.

A County Board judgment that is further appealed by a municipality or a taxpayer, is not a "judgment final" and cannot be the basis for application of the Freeze Act for two (2) subsequent tax years. Where the County Board enters its judgment in year 1 and that judgment is further appealed, the Freeze Act does not apply. The municipal assessor is not required to apply the judgment value in year 2 and can reflect on the Tax List the assessed value he deems proper.

3. County Board Judgments Which Are Not Further Appealed = “Judgment Final.”

When the County Board enters a judgment reducing an assessment which is not further appealed by either party, it becomes a “judgment final” for purposes of the Freeze Act statute. The County Board, in reviewing and revising the Tax Lists (N.J.S.A. 54:4-46 and 47), should adjust any assessment where a “judgment final” entered by the Board is not appropriately reflected. Where a change in value occurs after the previous year’s assessing date so as to negate the Freeze Act, then the municipality, at the behest of the assessor, should file a conventional tax appeal with the County Board as per N.J.S.A. 54:3-21 to prove change in value.

4. Exempt/Taxable Status or Farmland Assessment = No Freeze Act.

The Freeze Act applies to final judgments which are based upon valuation. It does not apply to the exempt/taxable status of a property, nor judgments granting farmland assessment.

“...The evil which the ‘freeze’ statute sought to remedy was repeated yearly increases in the assessed value of property, not related to or justified by any changes increasing its market value, and resulting in harassment of the taxpayer, subjecting him to the trouble and expense of annual appeals to the county tax board. It has no application, either by its phraseology or its obvious intent, to determinations of the tax exempt status...” Newark v. Fischer, 8 N.J. 19 (1951).

**REFERENCES:**

**N.J.S.A. 54:3-26**

**N.S.J.A. 54:51A-8**

**Township of Wayne v. Robbie’s, Inc., 118 N.J. Super. 129 (App. Div. 1972) cert. denied by 60 N.J. 351 (1972).**

**South Plainfield Borough v. Kentile Floors, Inc., 92 N.J. 483 (1993).**

**Letter to County Tax Board Administrators and County Tax Commissioners from Deputy Attorney General Harry Haushalter: April 11, 1983.**

Boys' Club of Clifton, Inc. v. Township of Jefferson, 72 N.J. 389 (1977).

Hackensack City v. Bergen County, 405 N.J. Super. 963 (App. Div. 2009).

Rainhold Holding Co., v. Freehold Township, 15 N.J. Tax 420 (Tax Ct. 1996).

New Jersey Turnpike Authority v. Township of Monroe, 2 N.J. Tax 371 (Tax Ct. 1981).

Blair Academy v. Township of Blairstown, 95 N.J. Super. 583 (App. Div. 1967).

Belmont v. Wayne Township, 5 N.J. Tax 110 (Tax Ct. 1983).  
(*Farmland Assessment*)

**1105.17 Chapter 123, Method of Relief Available to Appellants.**

Chapter 123, Laws of 1973 provides a systematic method of determining whether an appellant in a discrimination tax appeal is entitled to and the amount of property tax relief.

Chapter 123, Laws of 1973 is a procedure for use by tax appeal hearing bodies, (County Boards of Taxation, the Tax Court, and the Appellate Division of the Superior Court) where the relief to be granted may be calculated, once the true value of the property under appeal is determined by the hearing body.

**1105.18 True Value.**

“True value” for purposes of the appeal process is that value deemed to be the “price a willing buyer would pay a willing seller at private contract on October 1 of the pretax year, i.e., year prior to the year at issue,” as determined by the hearing body.

**REFERENCE:**

**N.J.S.A. 54:1-35a; 1-35b; and 4-23**

**1105.19 Average Ratio and Common Level Range.**

On April 1 each year the Director, Division of Taxation publishes an “Average Ratio” and a “Common Level Range” for each municipality.

1. The “Average Ratio” for a taxing district corresponds to the Average Ratio promulgated by the Director on the preceding October 1 for State School Aid purposes, subject to change as the result of appeal and judgment of the Tax Court(Average Ratio also known as Director’s Ratio).
2. The “Common Level Range” for a taxing district is that range which is calculated to be 15% plus and minus the Average Ratio. For example, where the average ratio is found to be 78.00%, the Common Level Range would be: Lower Limit- 66.30%, Upper Limit- 89.70%.

Additional examples in calculating the Common Level Range can be found at: <http://www.state.nj.us/treasury/taxation/pdf/lpt/chap123/2016/chap123-2016cert.pdf>

**REFERENCES:**

**N.J.S.A. 54:10-35.a**

**Current Common Level Ranges (Chapter 123) are available at:**  
<http://www.state.nj.us/treasury/taxation/lpt/chapter123.shtml>

**1105.20 Calculation of Chapter Relief.**

A ratio is struck by dividing the assessed value of the property under appeal by the true value of the property as determined by the hearing body. This ratio is called “Subject Property Ratio.”

1. If the Subject Property Ratio falls within the Common Level Range, no reduction is to be made in the assessed value of the appealed property, subject to (3) and (4) below.
2. If the Subject Property Ratio exceeds the Upper Limit of the Common Level range, or falls below the Lower Limit of the Common Level Range, the assessment is to be determined by multiplying the Average Ratio for the taxing district, also known as the Director’s Ratio, times

the true value for the subject property as determined by the hearing body, subject to (3) and (4) below.

3. If the Subject Property Ratio exceeds the County Percentage Level (100%) and the district's Average Ratio (Director's Ratio) is below the County Percentage Level (100%), the assessment is determined by multiplying the Average Ratio for the taxing district times the true value for the Subject Property as determined by the hearing body.
4. If the Subject Property Ratio exceeds the County Percentage Level (100%) and if the district Average Ratio (Director's Ratio) also exceeds the County Percentage Level (100%), the assessment is determined by multiplying the County Percentage Level times the true value of the Subject Property as determined by the hearing body.

In a recent New Jersey Tax Court decision, North Brunswick Township v. Gochal, Gary and Nancy, 27 N.J. Tax 31(Tax Ct. 2012), the Court held, "While Chapter 123 is not the exclusive remedy for discrimination in assessment, 'a taxpayer's right to relief should be determined in accordance with Chapter 123 in all but the most extreme or severe circumstances'...In other words, N.J.S.A. 54:3-22(c) limits the relief that may be granted by the County Board of Taxation. The Tax Court is similarly limited by N.J.S.A. 54:51A-6a...[I]f the ratio of the assessment to true value is within the common level range, there is no provision for revision of the assessment: no adjustment of the assessment is required or permitted. A revaluation year is virtually the only instance in which a board of taxation (or the Tax Court) may revise an assessment without regard to whether the ratio of the assessment to true value falls outside of a common level range."

**REFERENCES:**

**N.J.S.A. 54:1-35a et seq.**

**N.J.S.A. 54:3-22**

**N.J.S.A. 54:4-52**

**Letter to Assessor of Each Municipality, Sidney Glaser, Director,  
 Division of Taxation, April 9, 1979.  
North Brunswick Township v. Gochal, 27 N.J. Tax 31(Tax Ct. 2012).**

**Chapter 123, Laws of 1973**

**EXAMPLE 1**

Situation

\*Whenever the County Board of Taxation, Tax Court of New Jersey or Superior Court is satisfied by the proofs that the ratio of the assessed valuation of the subject property to its true value exceeds the Upper Limit or falls below the Lower Limit of the Common Level Range, it shall revise the taxable value of the property by applying the Average Ratio to the True Value of the property.

Assumption

County Percentage Level	100.00%
Average Ratio	95.41%
15% Common Level Range	109.72 Upper limit
15% Common Level Range	81.10 Lower limit

Example

Subject Property-true value	\$100,000
Assessment	\$120,000
Ratio of assessment	120% (exceeds Upper Limit)
Reduce taxable value	$\$100,000 \times 95.41\% = \$95,410$ (Applying average ratio – 95.41%)

Property – same subject – true value	\$100,000
Assessment	\$70,000
Ratio of assessment	70.00% (below Lower Limit)
Increase taxable value	$\$100,000 \times 95.41\% = \$95,410$

(Applying Average Ratio – 95.41%)

**REFERENCES:**

**County Board of Taxation N.J.S.A. 54:3-22**

**Tax Court of New Jersey N.J.S.A. 54:51A-6**

**Superior Court N.J.S.A. 54:4-62**

**EXAMPLE 2**

Situation

\*If the Average Ratio is below the County Percentage Level and the ratio of the assessed value of the subject property to its true value exceeds the County Percentage Level, the County Board of Taxation, Tax Court of New Jersey or Superior Court shall reduce the taxable value of the property by applying the Average Ratio to the True Value of the property.

Assumption

County Percentage Level	100.00%
Average Ratio	95.41% (below County Level)
15% Common Level Range	109.72%    Upper limit
15 % Common Level Range	81.10%    Lower Limit

Example

Subject property – true value	\$100,000
Assessment	\$110,000
Ratio of Assessment	110.00% (exceeds County Level)
Taxable value reduced	$\$100,000 \times 95.41\% = \$95,410$

In this example, Average Ratio is below County Level – 95.41%

Assessment ratio exceeds County Level – 110.00%

Therefore, taxable value is reduced by applying Average Ratio – 95.41%

**REFERENCES:**

**County Board of Taxation N.J.S.A. 54:3-22**

**Tax Court of New Jersey N.J.S.A. 54:51A-6  
Superior Court N.J.S.A. 54:4-62**

**EXAMPLE 3**

Situation

\*If both the Average Ratio and the ratio of assessed value of the subject property to its true value exceed the County Percentage Level, the County Board of Taxation, Tax Court of New Jersey or Superior Court shall revise the taxable value of the property by applying the County Percentage Level to the True Value of the property.

Assumption

County percentage level	100.00%	
Average ratio	110.41%	(exceeds County Level)
15% Common level range	126.97%	Upper limit
15% Common level range	93.85%	Lower limit

Example

Subject property – true value	\$100,000
Assessment	\$120,000
Ratio of assessment	120.00% (exceeds County Level)

Taxable value decreased to County Level  $\$100,000 \times 100.00\% = \$100,000$

In this example, both the Average Ratio and the assessment ratio exceed the County Percentage Level.

Average ratio	110.41%
Assessment ratio	120.00%



**REFERENCES:**

**County Board of Taxation N.J.S.A. 54:3-22**

**Tax Court of New Jersey N.J.S.A. 54:51A-6**

**Superior Court N.J.S.A. 54:4-62**

**1105.21 Chapter 123 Not Applicable in Revalued or Reassessed Municipalities.**

Although district Average Ratio and Common Level Ranges will be published for all municipalities, taxpayers appealing assessments in those municipalities which implement approved revaluations or reassessments may not utilize Chapter 123 calculations. Appellants in revalued or reassessed municipalities must prove the elements of discrimination in the traditional manner.

**REFERENCES:**

**N.J.S.A. 54:3-22(f)**

**N.J.A.C. 18:12A-1.19**

**Letter to Assessor of Each Municipality, Sidney Glaser, Director, Division of Taxation, April 9, 1979.**

**1106. Chapter 91 Reasonableness Hearings.**

**1106.01 N.J.S.A. 54:4-34**

N.J.S.A. 54:4-34 provides, in part, “No appeal shall be heard from the assessor’s valuation and assessment with respect to income-producing property where the owner has failed or refused to respond to such written request for information within 45 days of such request or to testify on oath when required, or shall have rendered a false or fraudulent account. The County Board of Taxation may impose such terms and conditions for furnishing the requested information where it appears that the owner, for good cause shown, could not furnish the information within the required period of time.” See also NJ Administrative Code regulation at N.J.A.C.18:12A-1.8.

**REFERENCES:**

**Town of Phillipsburg v. ME Realty, LLC., 26 N.J. Tax 57, (Tax Court 2011).**

**1106.02 Legislative Intent of Chapter 91**

Amended May 16, 1979. The amendment added the provision denying appeal rights to owners of income-producing property who fail to respond to notice as a sanction.

The premise of Chapter 91 is that the taxpayer controls the income information. The income information is a good measure of value, and if the taxpayer withholds that information, the municipality has no choice but to set the property's assessment without benefit of income information. Further, the 45-day response period fixed in the statute was deemed "necessary to provide for an orderly procedure," Senate Revenue Finance and Appropriations Committee.

The New Jersey Supreme Court in *Ocean Pines Ltd.* sustained the statute. The Court held this is not a violation of due process nor in any way a violation of the taxpayer's rights. Statute is reasonably related to State's legitimate interest and timely receipt of economic information necessary for accurate valuation of property. Taxpayer does have right to a "reasonableness" hearing. *Ocean Pines, Ltd v. Borough of Pt. Pleasant, 112 N.J. 1 (1988).*

**REFERENCES:**

**Noam (ETAL), Yeshivat v. Borough of Paramus, 26 N.J. Tax 335 (Tax Court 2012).**

**1106.03 Role of County Tax Board re: Chapter 91 Request.**

If a chapter 91 dismissal is granted, the County Tax Board should conduct a reasonableness hearing. The taxpayer should have the opportunity to

establish that the assessor was not reasonable in determining the assessed value.

If taxpayer is successful, appeal is re-scheduled for a full valuation hearing. If taxpayer is unsuccessful, appeal is dismissed. Reasonableness hearings should be determined on a case by case basis and are generally limited to what is reasonable under the specific circumstances. Essentially, what information does the assessor need which is inaccessible without the cooperation of the taxpayer in order to determine the assessment?

Information requested should be pertinent to setting assessment for tax year under appeal.

**REFERENCES:**

**Town of Phillipsburg v. ME Realty, LLC., 26 N.J. Tax 57, (Tax Court 2011).**

**1106.04      Timing of Hearing.**

Reasonableness hearings can take place immediately or can be separately scheduled.

**1106.05      Burden of Proof.**

The taxpayer has the burden to prove that the assessor's method of valuation is unreasonable. The taxpayer can only use the information available to the assessor at the time the assessed valuation was made. The hearing is not "de novo" and interrogatories cannot be used.

**REFERENCES:**

**Terrace View Gardens v. Dover Township, 5 N.J. Tax 469 (Tax Court 1982), affirmed by 5 N.J. Tax 475 (App. Div. 1983), cert. denied by 94 N.J. 559 (1983).**

**Cassini v. City of Orange, 16 N.J. Tax 438 (Tax Court 1997).**

**Green v. East Orange, 21 N.J. Tax 324 (Tax Court 2004).**

**Delran Holding Corp. v. Delran Township, 8 N.J. Tax 80 (Tax Court 1985).**

**Monsanto Co. v. Kearny, 8 N.J. Tax 109 (Tax Court 1985).**

**Ocean Pines Ltd. v. Borough of Point Pleasant, 112 N.J. (1988).**

Pierce Davidson v. Township of Franklin, 15 N.J. Tax 709 (App. Div. 1996).  
SAIJ Realty, Inc. v. Kearny, 8 N.J. Tax 191 (Tax Court 1986).  
SKJ Realty Corp. v. Wall Township, 8 N.J. Tax 209 (App. Div. 1985).  
Great Adventure, Inc. v. Jackson Township, 10 N.J. Tax 230 (App. Div. 1988).  
Tower Center v. Township of East Brunswick, 15 N.J. Tax 692 (App. Div. 1996).  
Pisani v. Wayne Township, 13 N.J. Tax 412 (Tax Court 1993).  
TMC Properties v. Wharton Borough, 15 N.J. Tax 455 (Tax Court 1996).  
Carriage Four Assocs. v. Teaneck Township, 13 N.J. Tax 172 (Tax Court 1993).  
Rolling Hills of Hunterdon v. Clinton, 15 N.J. Tax 364 (Tax Court 1995).  
Westmark Partners v. West Deptford Township, 12 N.J. Tax 591 (Tax Court 1992).  
ML Plainsboro Ltd. v. Plainsboro Township, 16 N.J. Tax 250 (App. Div. 1996).  
Clinton Fountain Motel v. Clinton Township, 18 N.J. Tax 486 (App. Div. 1999).  
Two Brighton Ave. Assoc. v. Passaic, 18 N.J. Tax 480 (App. Div. 1999).  
Southeast Mall v. Berkeley Township, 18 N.J. Tax 326 (App. Div. 1999).  
Morey v. Borough of Wildwood Crest, 18 N.J. Tax 335 (App. Div. 1999).  
John Hancock Mutual Life v. Wayne Township, 13 N.J. Tax 417 (Tax Court 1993).  
Alfred Conhagen v. South Plainfield, 16 N.J. Tax 470 (App. Div. 1996).  
Summertown Plaza v. Manalapan Township, 15 N.J. Tax 173 (App. Div. 1995).  
ADP of New Jersey v. Parsippany-Troy Hills Township, 14 N.J. Tax 372 (Tax Court 1994).  
Hastings Plaza v. Washington Township, 17 N.J. Tax 165 (Tax Court 1998).  
Fimbel Door Corp. v. Readington Township, 17 N.J. Tax 525 (Tax Court 1998).  
Paulison Ave. Assoc. v. Passaic City, 18 N.J. Tax 101 (Tax Court 1999).  
Southland Corp. v. Dover Township, 21 N.J. Tax 573 (Tax Court 2004).  
J and J Realty v. Township of Wayne, 22 N.J. Tax 157 (Tax Court 2005).

New Plan Realty Trust v. Brick Township, 23 N.J. Tax 224 (Tax Court 2006).  
Southgate Realty Associates v. Bordentown Township, 246 N.J. Super. 149 (App. Div. 1991).  
Davanne Realty v. Edison Township, 408 N.J. Super. 16 (App. Div. 2009), cert. granted by 200 N.J. 371 (2009) affirmed by 201 N.J. 280 (2010).  
Tri-Martin Associates v. City of Newark, 21 N.J. Tax 253 (Tax Court 2004).  
Thirty Mazel, LLC. v. City of East Orange, 24 N.J. Tax 357 (Tax Court 2009).  
1717 Realty Associates, LLC. v. Borough of Fair Lawn, 201 N.J. 275 (2010).  
Lucent Technologies, Inc. v. Township of Berkeley Heights, 405 N.J. Super. 257 (App. Div. 2009) appeal granted by 199 N.J. 126 (2009) reversed by, in part, remanded by 201 N.J. 237 (2010).  
James-Dale Enterprises, Inc. v. Township of Berkeley Heights, 26 N.J. Tax 117 (Tax Court 2011).  
Fairfield Dev. c/o 46 Auto Imports v. Totowa Borough, 27 N.J. Tax 306 (Tax Court 2013).  
Paramus Associates, LLP/Home Depot, USA, Inc. v. Borough of Paramus, 27 N.J. Tax 274 (Tax Court 2013).

#### **1107. Tax Court of New Jersey.**

The Tax Court of New Jersey was established by the Legislature as an inferior court of limited jurisdiction involving tax matters pursuant to the State Constitution. (Article VI, Section I, paragraph 1). The New Jersey Tax Court is the successor to the N.J. Division of Tax Appeals.

#### **REFERENCE:**

**New Jersey Court Rules R. 8:3**

#### **1107.01 Appeal Petition/Complaint Form.**

Petitions of Appeal (Forms of Complaint) are accepted by the Tax Court from judgments, orders or determinations of a County Board of Taxation, the Director of the Division of Taxation, another State agency, or of a county recording officer in the case of Realty Transfer Fee matters.

**REFERENCE:**

**New Jersey Court Rules R. 8:3-4(b), (c) and (d).**

**1107.02 Commencement of Action.**

Complaints are filed with the Office of the Clerk of the Tax Court. However, no complaint may be filed with the Tax Court to review a local assessment unless an appeal was previously instituted before a County Board of Taxation. The Court will not receive a local assessment appeal even when an action against the assessment was instituted before the County Tax Board if:

1. the appeal to the County Board of Taxation was withdrawn;
2. the appeal to the County Tax Board was dismissed by the Board because the appellant failed to prosecute the appeal;
3. the appeal to the Board was settled by mutual consent of the taxpayer and assessor.

**EXCEPTION:**

A petition of appeal bypassing the County Board of Taxation may be filed directly with the Tax Court by a taxpayer or taxing district where the assessed value of the property under appeal exceeds \$1,000,000.

**REFERENCES:**

**New Jersey Court Rules R. 8:3-1(a); 8:3-1(b)**

**N.J.S.A. 54:3-21 as amended by P.L. 2009, c. 251**

**N.J.S.A. 54:51A-1 through 51A-12, as amended by P.L. 1991, c. 208**

**1107.03 Filing Deadlines for Appeal Complaints.**

Tax Court complaints must be filed:

- 1.a. within 45 days following promulgation of the Director's Table of Equalized Valuations.
  - b. within 45 days following promulgation of a county equalization table;
2. within 45 days after the date of other actions of a County Board to be reviewed;

3. within 90 days after the date of actions of the Director of the Division of Taxation, any other state agency, or a county recording officer with respect to Realty Transfer Fee.

**REFERENCES:**

**N.J.S.A. 54:1-35.4.**

**New Jersey Court Rules R. 8:4-1(a) and R. 8:4-1(b)**

**City of East Orange, et al v. Township of Livingston, 27 N.J. Tax 161 (Tax Court 2013).**

**1107.04 Service of Complaint.**

The Rules of the Tax Court specify that service may be made either personally or by certified or registered mail return receipt requested upon the necessary parties.

- A. Appeals from County Board Actions. Copies of the complaint must be served as:
  1. Complaint by taxpayer must be served on the County Board of Taxation, the assessor and the Clerk of the taxing district in which the property is located.
  2. Complaint by a taxpayer with respect to the property of another must be served on the County Board of Taxation, the assessor, the Clerk of the taxing district and the taxpayer whose property assessment is at issue.
  3. Complaint by a taxing district must be served on the County Board of Taxation, the assessor and the property owner whose assessment is to be reviewed.
  4. Complaint with respect to a County Equalization Table, an Abstract of Ratables, or any other action concerning equalization or apportionment of county taxes must be served on a County Board of Taxation, the Director or Clerk of the Board of Chosen Freeholders, and on the Clerk of every municipality in the county, and the State Attorney General.

5. A complaint to correct an error in assessment pursuant to N.J.S.A. 54:51A-7 (Correction of Errors) must be served as:
  - i. If by a taxpayer, on the County Board of Taxation and the Clerk of the taxing district;
  - ii. If by a municipality, on the County Board of Taxation and the taxpayer;
  - iii. If by a County Board of Taxation, on the assessor, the Clerk of the taxing district and the taxpayer.
6. A complaint to review a revaluation order of the County Board of Taxation must be served on the Clerk of the taxing district (unless the complaint is filed by the taxing district), the Director of the Division of Taxation and the State Attorney General.

B. Appeals from State Tax Action

1. A complaint by a taxpayer to review an action of the Director, Division of Taxation or another State agency concerning a tax matter, or a county recording officer with respect to the Realty Transfer Fee must be served upon the Director, Division of Taxation and the State Attorney General.
2. A complaint to review apportionment valuations for distribution of public utility franchise and gross receipts taxes established by the Director, Division of Taxation must be served upon the Director, the State Attorney General and the Clerk of every municipality which shares in the apportionment.
3. A complaint to contest the validity or assessment amount by the Director, Division of Taxation of railroad property or franchise taxes must be served on the State Attorney General and the Clerk of the taxing district in which the property is located. If the complaint is filed by the Attorney General or a taxing district, the complaint is served on the taxpayer.



**REFERENCE:**  
**New Jersey Court Rules R. 8:5-4**

**1107.05 Complaint Forms.**

Complaint forms have been prepared by the State Court, including two complaint forms to be used by taxpayers and taxing districts for local property tax appeals. The complaint must state whether or not it is a Small Claims Case, so that the Clerk of the Tax Court can assign those cases to the Small Claims Division. A case is a Small Claims Case if each separately assessed parcel of property included in the complaint is either a Class 2 residential property (1-4 family residence) or a Class 3A farm residence or the prior assessment year's property taxes were less than \$25,000. Each are described below:

- Class 2 residential property – a lot or parcel of land on which a house designed for use by not more than four families is situated.
- Class 3A farm residence- farm property not assessed under the Farmland Assessment Act.
- Prior year's tax – the property tax paid on the subject property for the year before the assessment year being appealed must have been less than \$25,000.

A brief statement of the factual basis of the claim and the relief sought must be contained in the complaint. The wording of the form of complaint may be modified to adapt the form to the facts, allegations and the relief sought in a particular case. A copy of the County Board of Taxation judgment or order must be attached to the complaint. The complaint may be signed by the attorney of record and served by an attorney or signed by a party to the proceeding and served by a party to the complaint if there was a hearing at the County Board of Taxation.

**REFERENCES:**  
**New Jersey Court Rules R. 8:3-4(b); R. 8:3-5; R. 8:3-9; and R. 8:11**

**Tax Court of New Jersey, Small Claims Case Handbook, Local Property Tax** [http://www.judiciary.state.nj.us/taxcourt/small\\_claims\\_%20booklet.pdf](http://www.judiciary.state.nj.us/taxcourt/small_claims_%20booklet.pdf)

**1107.06 Discrimination Complaints.**

If a complainant alleges that the property in question is not assessed at the Common Level or Average Ratio of assessment applicable in the taxing district, the complaint must set forth the Common Level or ratio of true value alleged to be applicable.

**REFERENCE:**

**New Jersey Court Rules R. 8:3-7**

**1107.07 Filing Fees for Tax Court.**

The filing fee must be received with the complaint. For regular Tax Court complaints contesting local property assessments, a general filing fee of \$200 is charged for the first parcel and \$50 for an additional parcel.

Complaints in the Small Claims Division of the Tax Court are charged a filing fee of \$35 for one property. Multiple property complaints are charged \$35 for the first property and \$10 for each additional property which is contiguous and in common ownership.

In cases of multiple causes of action contained in a single complaint or counter claim the following schedule of fees applies:

1. Condominiums – If a complaint includes more than one parcel of real property separately assessed under either the Horizontal Property Act or the Condominium Property Act, the filing fee is \$200 for the first separately assessed parcel, and \$50 for each additional separately assessed parcel of property of the owner included in the complaint. A Small Claims case is \$35 for the first separately assessed parcel of the property owner and \$10 for each additional separately assessed parcel of the owner included in the complaint.

Where the question at issue is eligibility for a veteran, or senior/disabled property tax deduction no filing fee is charged. Checks or money orders for fee payments should be made out to Treasurer, State of New Jersey.

**REFERENCES:**

**N.J.S.A. 46:8B-2 and 46:8B-19**

**New Jersey Court Rules R. 8:12(a) through 8:12(d)**

**1107.08 Amendments to Pleadings.**

Complaints may be amended or supplemented upon motion and notice to all involved parties at any time prior to hearing before the Tax Court. However, the amendment may not substitute or add any new or different cause of action.

**REFERENCE:**

**New Jersey Court Rules R. 8:3-8**

**1107.09 Withdrawal of Complaint.**

A complaint may be withdrawn at any time prior to the conclusion of the hearing before the Tax Court with the Court's permission. A complaint may be withdrawn by forwarding a letter of withdrawal or stipulation of dismissal to the Court.

**REFERENCE:**

**New Jersey Court Rules R. 8:3-9**

**1107.10 Prior to the Hearing.**

Certain prehearing proceedings, i.e., discovery, exchange of appraisals or prehearing conferences may take place before the Tax Court calls the matter for hearing.

**1107.11 Discovery.**

Tax Court rules permit parties to use discovery, the parties request factual information from each through interrogatories, depositions or demands for

admission to ascertain the factual basis for the opposing party's case. Tax Court rules provide that interrogatories must be answered within 30 days, except in the case of actions to review State School Aid and County Equalization Tables where interrogatories must be answered within 20 days.

**REFERENCE:**

**New Jersey Court Rules R. 8:6-1(a)**

**1107.12 Exchange of Appraisals.**

Where the value of property is an issue, a party using the testimony of a valuation expert must furnish each opposing party a copy of the expert's written appraisal report.

1. At or prior to the prehearing (pretrial) conferences; or
2. 20 days prior to trial date, if there is no prehearing (pretrial) conference.

**REFERENCE:**

**New Jersey Court Rules R. 8:6-1(b)**

**1107.13 Prehearing (Pretrial) Conference.**

Prehearing conferences may be conducted by the Tax Court to eliminate extraneous issues, contentions or arguments that any party to the proceeding might seek to introduce, and to "streamline" the case. At prehearing (pretrial) conference, the judge orders the issues that are to be heard (tried).

**REFERENCE:**

**New Jersey Court Rules R. 8:6-2**

**1107.14 Tax Court Hearings.**

All matters in the Tax Court are heard by a single judge sitting without a jury. A record is kept of all proceedings, and all testimony is required to be given under oath.

**1107.15 Submission without a Hearing (on the papers).**

A party to a proceeding before the Tax Court, after notice to all parties, may move to submit the case to the court without a trial. This might be done where sufficient facts have been established, stipulated and admitted into the record and a hearing is not required. Such a procedure must be agreed to by the Tax Court, which may still require further information.

**REFERENCE:**

**New Jersey Court Rules R. 8:8-1(b).**

**1107.16 Assignment for Hearing.**

The presiding judge assigns cases for hearing to a Tax Court location and judge considering the convenience of the participants and the location of the property.

**REFERENCE:**

**New Jersey Court Rules R. 8:8-2.**

**1107.17 Hearing in the Small Claims Division.**

The general rules of procedure in the Tax Court apply to the Small Claims Division, except that the prehearing conference may be held at the same time the case is scheduled for hearing. Both the prehearing conference and the hearing are informal and the judge may hear such testimony and receive such evidence as he deems necessary, but all testimony must be given under oath. All proceedings in the Tax Court, including Small Claims matters, must be recorded.

**REFERENCES:**

**N.J.S.A. 2B:13-1 et seq.**

**New Jersey Court Rules R. 8:11**

**1107.18 Burden of Proof.**

The courts have held in past appeal proceedings before the Division of Tax Appeals and currently before the Tax Court, findings of the County Board of Taxation must be presumed correct. The burden of proving

otherwise falls on the party carrying the appeal to the Tax Court level. An appeal from the judgment of a County Board of Taxation brings within the jurisdiction of the Tax Court the entire assessment, not just the aspects argued before the County Board and is a “trial de novo.”

**REFERENCES:**

**City of Passaic v. Passaic Pioneer Properties Co., 35 N.J. Super. 94 (App. Div. 1959) cert. denied by 30 N.J. 153 (1959).**

**Veeder v. Township of Berkeley, 109 N.J. Super. 540 (App. Div. 1970).**

**1107.19 Judgments.**

The Tax Court is required to put its findings of fact and law in writing and file copies with the parties to the appeal, the County Tax Administrator, the assessor, Clerk and collector of the taxing district. If any party to the appeal believes the judgment of the Tax Court is inadequate, it may carry a further appeal to the Appellate Division, Superior Court.

**REFERENCE:**

**N.J.S.A. 54:51A-1**

**1107.20 Freeze Act at Tax Court.**

The purpose of the Freeze Act is to prevent a taxing district from harassing a taxpayer by forcing him to appeal his assessment every year, in order to receive equitable treatment.

**1107.21 Binding Effect of Final Judgments.**

The assessed value set by final judgment of the Tax Court must remain in effect for the assessment year and for the next two years. Exceptions to this “Freeze Act” may be made only:

1. if the assessor can demonstrate at appeal, that the value of the property has changed since the assessment date, or
2. if a complete revaluation or district-wide reassessment of all real property in the taxing district was put into effect.

As a result of court decisions, the Attorney General set forth guidelines for applying the Freeze Act to a Tax Court or an appellate court “judgment final” (a judgment not further appealed) as follows:

- Normally, these judgments are entered when one or both Freeze Act years have already passed. Unlike the County Boards which can prospectively apply the Freeze Act to their own judgments when not further appealed, the judgments entered by Tax Court and higher courts may involve adjustments of Tax Lists and county apportionments which were already adopted. For example, the Tax Court judgment may state that the assessed valuation applies only for a particular year. This statement would likely appear on a stipulated judgment where the taxpayer waived application of the Freeze Act for two years subsequent to the year under appeal.
- In other instances, the Tax Court may issue a judgment establishing a fixed assessment for the tax year or years in question and further note that the Freeze Act applies. In circumstances where judgments state that the Freeze Act applies, County Boards have authority to reflect changes on Assessment Lists for tax years in question and to accord the affected municipality a credit toward its county taxes based on reductions in assessed valuations. County Boards should insist on written confirmation from municipal tax collectors that tax refunds for Freeze years were made so Boards can reflect the credits toward county apportionment on Tables of Aggregates.
- Where Tax Court or Appellate Court judgment is silent as to the Freeze Act, County Boards should not assume the Freeze Act applies. Unless the judgment explicitly establishes application of the Freeze

Act, County Boards have no authority to automatically apply the Act. A taxpayer, seeking the Freeze Act at Tax Court/ Appellate Court should obtain a further order clarifying the application of the Freeze Act. Only upon the entry of a clarifying order can the County Boards make Freeze Act adjustments.

[http://www.judiciary.state.nj.us/taxcourt/forms/11016\\_freezeact.pdf](http://www.judiciary.state.nj.us/taxcourt/forms/11016_freezeact.pdf)

**REFERENCES:**

**N.J.S.A. 54:51A-1**

**South Plainfield Borough v. Kentile Floors, Inc. 92 N.J. 483 (1983).**

**City of Atlantic City v. California Ave. Ventures, LLC., 21 N.J. Tax**

**511 (Tax Court 2004) affirmed by 23 N.J. Tax 62 (App. Div. 2006).**

**Northvale Borough v. Director, Division of Taxation, 17 N.J. Tax 204**  
**(Tax Court 1998).**

**Brae Associates v. Park Ridge Borough, 21 N.J. Tax 88 (Tax Court**  
**2003).**

**U.S. Postal Service v. Township of Kearny, 19 N.J. Tax 282 (Tax**  
**Court 2001).**

**Bonsanque v. Little Egg Harbor Township, 17 N.J. Tax 439 (Tax**  
**Court 1998).**

**2nd Roc-Jersey Assoc. v. Morristown, 11 N.J. Tax 45 (Tax Court**  
**1990).**

**Jack Nissim and Sons v. Bordentown Township, 10 N.J. Tax 464 (Tax**  
**Court 1989).**

**Cumberland Arms v. Burlington Township, 10 N.J. Tax 255 (Tax**  
**Court 1988).**

**Fifth Roc Jersey Associate, LLC. v. Town of Morristown, 26 N.J. Tax**  
**212 (Tax Court 2011).**

**Letter to County Tax Board Commissioners and County Tax**  
**Administrators from Deputy Attorney General Harry Haushalter:**  
**April 11, 1983.**

**1107.22 Correction of Errors by Tax Court.**

The Tax Court, upon the filing of a complaint by a property owner, a municipality or a County Board of Taxation, is permitted, upon written application, to correct typographical errors, errors in transposing and mistakes in tax assessments either during the tax year at issue or within the next three years. Tax Court has stated the Correction of Errors statute is to be applied to administrative, clerical or ministerial actions only, and not to



complaints involving an assessor's opinion of value. The complaint should state the facts concerning the error, and be verified by affidavits submitted by the applicant. Copies of complaints must be served upon the County Board of Taxation, and upon the property owner or municipality as appropriate. Any party receiving a copy of a Correction of Errors complaint may file an objection or other response with the Tax Court in accordance with the Rules of the Court.

**REFERENCES:**

**N.J.S.A. 54:51A -7**

**Hovbilt, Inc. v. Howell Township 263 N.J. Super. 567 (App. Div. 1993) affirmed by 138 N.J. 598 (1994).**

**Manczak v. Township of Dover, 2 N.J. Tax 529 (Tax Court 1981).**

**Flint v. Lawrence Township, 6 N.J. Tax 97 (Tax Court 1983).**

**McElwee v. Ocean City, 7 N.J. Tax 355 (Tax Court 1985).**

**American Dispenser Co. v. Carlstadt, 8 N.J. Tax 70 (Tax Court 1985).**

**Neptune Corp. v. Wall Township, 9 N.J. Tax 80 (Tax Court 1987).**

**1107.23 Administrative Corrections of Errors by Governing Body or County Tax Board**

Where by mistake property, real or personal, has been twice entered and assessed on the Tax Duplicate, the governing body of the taxing district or County Board of Taxation may correct the record and refund the excess payment without interest. This has been interpreted to apply to current year adjustments.

**REFERENCES:**

**N.J.S.A. 54:4-54**

**Farmingdale Realty Co. v. Borough of Farmingdale, 55 N.J. 103 (1969).**

**Cerame v. Township Committee of Township of Middletown in County of Monmouth, 349 N.J. Super. 486 (App. Div. 2002).**

**1108. The Appellate Courts.**

Appeals from Tax Court judgments may be carried to Superior Court, Appellate Division within 45 days. Appellate Division forms and

instructions are available on-line. Appellate Division judgments are subject to further review by the Supreme Court of New Jersey. Filing procedures are governed by Appellate Division Rules. However, a copy of the appeal should be sent to the opposing party, the assigned trial judge and the Tax Court Clerk/Administrator. Copies of case transcripts may be obtained for a fee by contacting the assigned judge's chambers.

**1108.01 Historical Precedents- Traditional Relief Available to Appellants.**

Prior to enactment of legislation in 1973 which became effective in 1978 (c.123, P. L. 1973) appeals were divided into two types: (1) non-discrimination, and (2) discrimination. Other than in a year in which a revaluation is implemented, a number of court decisions broadened the relief that an appellate agency can grant in such cases.

**(NOTE:** These cases are presented for historical background – and are not the rule of law at this time.)

**1108.02 The Royal Case.**

The *Royal* case, decided in 1909, established that the only way relief could be granted to a taxpayer in a discrimination appeal was to raise the assessments on all other properties in the taxing district to full market value. Since this was almost impossible to accomplish, relief was almost nonexistent.

**REFERENCES:**

**Royal Manufacturing Company v. Board of Equalization of Taxes, 76 N.J.L. 402 (Sup. Ct. 1908) affirmed by 78 N.J.L. 337 (E. and A. 1909). Sidney Glaser, "Legal Aspects of Assessing," Proceedings of the Third Annual Institute for Assessing Officers (New Brunswick: Bureau of Government Research, Rutgers, The State University, March 1957), pp. 10-13.**

**1108.03 The Gibraltar Case.**

In 1955, the *Gibraltar* case established that the guiding principle should be equality of treatment. The Court affirmed the right of appellate agencies,

such as the County Board of Taxation and Division of Tax Appeals, to set the assessment of any property at the “Common Level” of other properties in the taxing district. However, the case did little to indicate how the Common Level should be proved.

**REFERENCES:**

**Gibraltar Corrugated Paper Co. v. North Bergen Township, 20 N.J. 213 (1955).**

**Aaron K. Neeld, “The Gibraltar Case – Full True Value Assessments,” New Jersey Municipalities, January, 1956, pp. 16-23.**

**1108.04 The Lackawanna Case.**

In the 1957 Lackawanna case, the court ruled that a taxing district’s Average Assessment-Sales Ratio, determined by the Director, Division of Taxation for State School Aid purposes, could not be used by an appellant for establishing the Common Level of assessments in the district. This decision restricted the rule laid down in the Gibraltar case, by making proof of the Common Level a difficult and expensive procedure.

**REFERENCES:**

**Delaware, Lackawanna and Western Railroad Company v. Neeld, 23 N.J. 561 (1957).**

**William Miller, “Recent Developments in Legislation and Case Law,” Proceedings of the Seventh Annual Conference for Assessing Officers, 1960 (New Brunswick: Bureau of Government Research, Rutgers, The State University, May, 1961), p. 14-20.**

**1108.05 The Kents Case.**

In 1961, the Court ruled that, in the absence of other information to prove the Common Level of assessments, a “constructed” Common Level, such as the Average Assessment-Sales Ratio determined by the Director of the Division of Taxation, could be used as the Common Level. An appellant who proved that an assessment was at a different level of true value than the Average Ratio may have the assessment adjusted to the Average Ratio.

**\*NOTE:** The Court also ruled that aggregate assessment of property, including land and building(s) as a parcel, is the controlling factor in a discrimination appeal. In other words, the land assessment and building

assessment cannot be considered separately for appeal purposes. This is still the ruling – appeals must be of the total property value.

**REFERENCES:**

**In re Appeals of Kents, Inc. 34 N.J. 21 (1961)**

**William Kingsley, “The Kents Case – A Remedy for Assessment Inequality,” New Jersey Municipalities, February, 1961, pp. 4-8.**

**1108.06      The Siegal Case.**

In the 1962 Siegal case, the Court clarified the Kents case in that individual class assessment-sales ratios, (Residential, Farm, Commercial, Vacant Land Classes) as an intermediate step in establishing the Average Assessment-Sales Ratio for all properties, cannot be used as a basis for claiming a reduction to the level for a given class of property. The Average Ratio for all classes remains as evidence of a Common Level.

**REFERENCE:**

**Siegal v. City of Newark, 38 N.J. 57 (1962).**

**1108.07      The Tri-Terminal Case.**

In 1975, an appellant sought relief by invoking the Kents doctrine and the Court held that a taxpayer in a discrimination appeal must show that relative to other property, generally, in the taxing district, his property is assessed on a less favorable basis. The Court said if in a time of generally rising real estate prices his property sustained the same enhancement of true value as other properties generally, and if assessments remained unchanged, this would leave the taxpayer in a position of relative uniformity for property tax treatment as was fixed by a fair and accurate revaluation carried out two or three years previously. The Court noted that while it could find no discrimination in this case, it did not necessarily approve of the practice of holding assessments the same year after year, since the law calls for separate assessment of each parcel annually at its true value on the assessing date. The Court went on to say while practicalities preclude most assessors from reviewing every line item each

year, there should nevertheless be alertness to changed valuation factors affecting individual properties in the years between revaluations.

**REFERENCES:**

**Tri-Terminal Corporation v. Borough of Edgewater, 68 N.J. 405 (1975).**

**Local Property and Public Utility Branch News, January-February, 1976, p. 1, May-June, 1976, p.2.**

**1108.08      The Piscataway Associates Case.**

In this 1976 case the Court, held that *Kents* case type of tax relief was applicable, and that although a fair and accurate revaluation established a Common Level at the time it was implemented, the carrying of the same assessments for nine years substantially undercut the presumption that values of all properties rose at the same or similar rate. The Court felt property values in a municipality as large as Piscataway Township would probably not increase at the same rate in all neighborhoods over such a period of time. The Court recognized that while *Tri-Terminal Corp v. Borough of Edgewater* accepted a general revaluation which was effective for 1969 as remaining valid for 1971 and 1972, the correctness of this assumption dissipates with the passage of time.

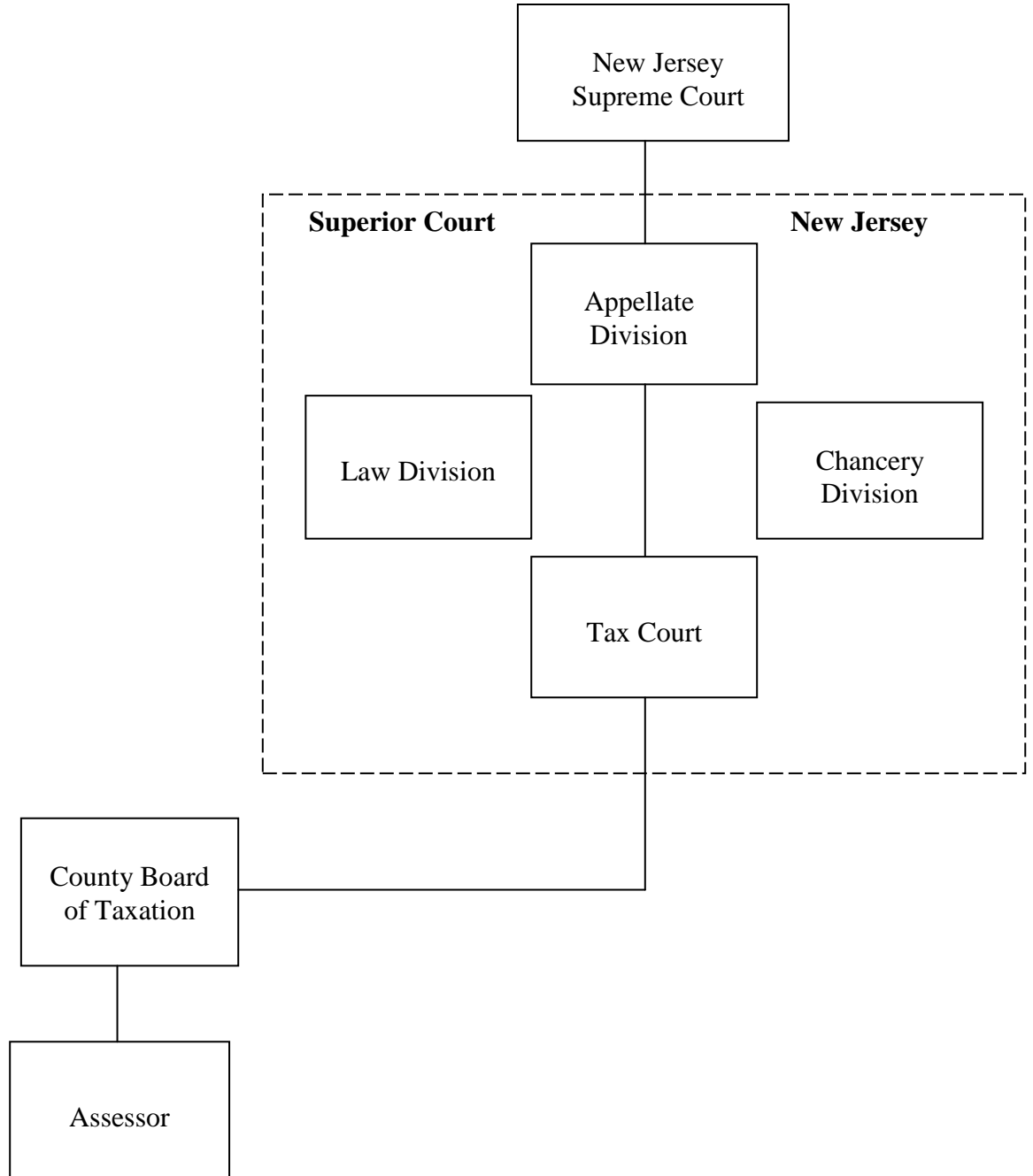
**REFERENCES:**

**Piscataway Associates, Inc. v. Piscataway, 73 N.J. 546 (1977)**  
**superseded by statute as stated in Weyerhauser Co. v. Closter, 190 N.J. Super. 528 (App. Div. 1983).**

**1109. The Route or Levels of a Tax Appeal.**

**Administrative Remedy**

**Appeal to Courts**



## 1110. How to Reference Court Decisions.

### Case: *Morristown v. Woman's Club of Morristown*

Cite Number	Court Level	Volume Number	Page Number	Year
10 <u>N.J. Tax</u> 309 (1989)	Tax Court	10	309	1989
242 <u>N.J. Super.</u> 654 (1990)	NJ Superior Court	242	654	1990
122 <u>N.J.</u> 392 (1990)	NJ Supreme Court	122	392	1990
124 <u>N.J.</u> 605 (1991)	NJ Supreme Court	124	605	1991

When a reviewing court strives to determine the legislative intent of any statute, the court looks to the language of the statute, the policy underlying the statute, the concept of reasonableness and the legislative history.