

**Summary of Court Ordered Assessment Revaluation
in the City of Worcester, MA – 1970 - 1980**

Upon taking office, an assessor's swears "that I will neither over value nor undervalue any properties subject to taxation, and that I will faithfully perform all the duties of said office." G.L. c. 41 § 29.

The basic cause for revaluation in Worcester, MA was the accumulation of property value inequities. A court order, prompted by a taxpayer's lawsuit, compelled the City of Worcester to revalue the city's properties at full and fair cash value.

Alan and Arthur Goldstein, brothers and lawyers, had bought homes on the opposite sides of a street in Worcester, MA. In comparing their 1971 tax bills, they discovered that the city assessed one home at 57% of the purchase price, and the other at 38%. Based upon this inequity, the Goldstein's conducted research and uncovered sufficient discrepancies involving the assessed value of properties throughout the City of Worcester.

Representing 10 taxpayers of the City of Worcester, the Goldstein's filed a Bill of Complaint to force the city to revalue the tax assessments.

Judge Henry Chmielinski, of the Worcester Superior Court, responded to the pleading by issuing a temporary restraining order preventing the City of Worcester from issuing property tax bills. The court also issued a temporary decree forcing the City of Worcester to revalue all of their property. In August, 1972, Judge Chmielinski lifted the restraining order based on a Stipulation Agreement between the parties that the City of Worcester would revalue all of its properties to 100% revaluation.

The Master in the case, Julian Soshnick, Esquire, presented his opinion concerning the city's assessing process:

That in the years 1970, 1971, and 1972, the assessments of real estate made by the Respondent members of the Board of Assessors of the City of Worcester have been based upon a policy of arbitrariness, discrimination and capriciousness. The

assessments placed upon the said properties by the Assessors varied widely from the full and fair case value of the property. The assessments placed upon the real estate ranged between nine-tenths of one per cent (0.9%) of the full and fair cash value to three hundred and twenty-one and forty-three one hundred per cent (321.43%) of the full and fair cash market value. In only on instance of the of a real estate transfer in the City of Worcester, of all of the properties transferred and recorded in the Registry of Dees in the years 1970 and 1971, was a hundred pre cent (100%) assessment placed thereon by the Respondent Assessors.

I therefore conclude that the Respondent Board of Assessors and their predecessors in office have pursued a policy and practice of establishing valuations, assessing real estate within the City of Worcester in an arbitrary, discriminatory and capricious manner without regard to the full, fair cash value thereof. As these assessments vary so widely from the full and fair cash value of the properties, I must conclude that there is neither discernible pattern nor comprehensible manner of scheme for distinguishing between various types of property, which has been followed by the assessors. I further conclude that in view of the grossly disproportional relationship between the percentage of assessment place upon similar types of real estate that there is no pattern or intelligible technique which is followed by the Assessors of the City of Worcester, Respondents herein, in assessing any of the real estate within their jurisdiction.” (*Superior Court Equity No. 5215, Alan Goldstein, et ali v. Joseph W. Carney, et ala Master’s Report*)

Although the court had ordered revaluation for all of the properties, the City procrastinated in fulfilling its mandate. The City’s first evaluation plan was presented on December 27, 1972 and Judge Chmielinski rejected that plan. The City forwarded a second amended plan, which was also rejected by the Court in February, 1973. A third plan was finally accepted by the court.

Judge Chmielinski made it clear that he had no confidence in the City of Worcester’s Assessors to complete the goal of revaluation. He stated after the second rejected plan:

I herewith direct that in or within a week from this date the respondents submit a further plan of revaluation based upon a format which precludes as much as in humanly possible participation by the respondent Assessors, through consistent with the powers and duties which in this care are unfortunately with the powers and duties which in the case are unfortunately vested in them by Stature; such a plan to bring about a fair, impartial and equitable revaluation of the City of Worcester. Interstitially, I should add that as a part of the plan nothing less than complete candor and honesty, inclusive of making available to the public all notes and working papers used in the valuation process, will be accepted.”

To this end I suggest to the respondents that this Court lacks faith in their ability or willingness to carry out their Statutory mandate. To suggest that additional Assessors, selected and/or under the control of the respondents would be satisfactory, is almost an insult to the Court, much akin to setting out the fox to guard the chicken coop. A plan which calls for anything but minimal discretion by the assessors consistent with the powers and duties imposed upon them by Statute will not be acceptable. This court assumes that the Respondents will not be so foolhardy as to submit a further plan which will be inconsistent with the findings and Decree.” (Report prepared on the rejection of the city’s first plan – Judge Henry H. Chmielinski, Justice Superior Court, December 27, 1972)

During the implantation of the plan, there were a number of highly contested city council meetings with irate citizens concerned about the potential increase of their real estate values. The city assessors were not fully invested in the court order and the amended plan. The City Manager, Francis McGrath, had rejected the master’s conclusions and defended his chief assessor during the revaluation process.

The court pulled the city assessors almost completely out of the evaluation process. At one point, there were allegations that the City Assessor had made false statements concerning specific court testimony. The court eventually dismissed the action.

The process to force the City of Worcester to revalue all of its property at 100% assessment was the impetus for all cities and towns within the Commonwealth to adhere to this procedure. Although, the concept of revaluation had created a perception that the taxpayer would be hurt, the issue was that all the taxpayers would be paying their fair assessed value for their property. One hundred percent (100%) assessed evaluation is required by State law. The Goldstein lawsuit was the impetus to ensure that real estate is fairly assessed and taxed by municipalities.

Submitted by: Mark A. Goldstein, Esquire

DATE: February 10, 2010