

Veto No. 2008-1

HB 1438

July 14, 2008

To the Honorable House of Representatives of
The Commonwealth of Pennsylvania:

I am returning HB 1438 without my signature. I do this with regret that our deliberative process did not afford adequate time to craft legislation that would both protect new property owners from a spot re-assessment process and provide reasonable protections to ensure that all homeowners carry their fair share of local property tax burden in the absence of county-wide re-assessment.

The changes provided for in HB 1438, and a companion bill in the Senate, SB 1247 which I am also vetoing, are an attempt to update a seventy year old statute which in my estimation does need revision. However, this legislation would remove significant powers that local taxing entities now have to challenge the county tax assessment of properties when there is a change of land use for those properties or they are sold and are under-assessed for their current use. This right to appeal assessments is a fundamental structure of our property tax law since it ensures that taxpayers can seek redress if they believe that assessors have undervalued, or overvalued, the fair market value of properties in their communities. Undervaluing of properties may result in a higher millage rate being imposed on all taxpayers. Equally fundamental in the law is the power of local taxing entities to seek redress if the county fails to establish a fair rate of assessment after a property is transferred since the county's failure to establish a reasonable fair market value in this instance can also affect all taxpayers under the jurisdiction of the taxing entity.

Schuylkill County is a perfect example of this problem. The county has not completed a reassessment since 1997. As a result, in just the last three years, according to the Schuylkill County Assessment Records, Schuylkill County Schools have appealed 3,133 properties. The school districts generated \$630,135 new dollars for the County of Schuylkill; \$388,832 new dollars for the municipalities of Schuylkill County; \$1,794,780 new dollars for the School Districts of Schuylkill County; and have increased Schuylkill County's market value by \$52,598,954. The Blue Mountain School District appealed assessments and, as a result, increased local tax revenue by \$356,450 for the schools. That level of revenue is equal to a .81 mill tax increase for the local taxpayers. These appeals were successful indicating that under-assessment of transferred land had occurred.

The impetus for this legislation is that some property owners (particularly residential property owners) assert that a school district's right to appeal an assessment, if successful, results in a spot-reassessment of their properties. The result is a property tax increase for the property owners due to the assignment of a higher fair market value on the property. Particularly harmed are new homeowners who purchase their homes based on one set of assumptions about their property taxes (that is, the property tax rate prior to purchase), only to find that they are required to pay much more in taxes than they expected or can even afford upon a school district's successful appeal of

the fair market value of their property.

Given that counties are not compelled to regularly reassess the properties within their borders, the current law gives taxing entities the chance to have fair market values assigned to the properties under their jurisdiction, resulting in greater fairness in the imposition of property taxes for all property owners. However, as stated above, current law may result in spot reassessments. In the short term, I urge the sponsors of this legislation to work over the summer to resolve these two legitimate competing interests and find a compromise approach that ensures the appropriate sharing of the local property tax burden among all property owners.

I also recommend that the legislature start to tackle the long term solution to this problem – the passage of legislation that would compel regular assessments at the county level.

EDWARD G. RENDELL

Veto No. 2008-2

SB 1247

July 14, 2008

To the Honorable Senate of
The Commonwealth of Pennsylvania:

I am returning SB 1247 without my signature. I do this with regret that our deliberative process did not afford adequate time to craft legislation that would both protect new property owners from a spot re-assessment process and provide reasonable protections to ensure that all homeowners carry their fair share of local property tax burden in the absence of county-wide re-assessment.

The changes provided for in SB 1247, and a companion bill in the House, HB 1438 which I am also vetoing, are an attempt to update a sixty year old statute which in my estimation does need revision. However, this legislation would remove significant powers that local taxing entities now have to challenge the county tax assessment of properties when there is a change of land use for those properties or they are sold and are under-assessed for their current use. This right to appeal assessments is a fundamental structure of our property tax law since it ensures that taxpayers can seek redress if they believe that assessors have undervalued, or overvalued, the fair market value of properties in their communities. Undervaluing of properties may result in a higher millage rate being imposed on all taxpayers. Equally fundamental in the law is the power of local taxing entities to seek redress if the county fails to establish a fair rate of assessment after a property is transferred since the county's failure to establish a reasonable fair market value in this instance can also affect all taxpayers under the jurisdiction of the taxing entity.

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EDWARD G. RENDELL

Veto No. 2008-3

SB 740

October 17, 2008

To the Honorable Senate of the
Commonwealth of Pennsylvania:

I am returning Senate Bill 740, which authorizes the Department of General Services (DGS) to take seven specific actions with respect to Commonwealth lands, without my signature.

Among the authorizations included in Senate Bill 740 are the conveyance of certain lands located in Benner Township, Centre County, the sale to the highest responsible bidder of three parcels of land located in Benner Township, Centre County, the release of Project 70 restrictions on certain lands located in Lackawanna County, and the conveyance to the Schuylkill YMCA for \$160,000 of a tract of land and a building located in Pottsville, Schuylkill County. All of these transfers would accomplish significant and positive goals.

Also included in Senate Bill 740 are authorizations for two transfers in the City of Philadelphia – both located in or adjacent to the former United States Navy Base in South Philadelphia, which is currently undergoing a significant renaissance as a result of the efforts of the Philadelphia Industrial Development Corporation (PIDC).

The first of these authorizations allows DGS to deed for \$1 to the Philadelphia Regional Port Authority (PRPA) 16.89 acres of riparian rights in the Delaware River situated between Piers 122 and 124. This authorization will provide a vital piece of the land assemblage needed to develop “Southport” – a several hundred million dollar state of the art container shipping terminal to be developed through a public-private partnership that is expected to support thousands of new jobs in the City of Philadelphia. Specifically, transfer of these riparian rights to the PRPA and their inclusion in the Southport land assemblage will allow the creation of marginalized berths for container vessels on the Delaware. Without these riparian rights, Southport is not viable and would have to be abandoned.

The second authorization allows DGS to deed for \$1 to PRPA 305 acres of land situated in the eastern end of the Navy Yard. The Bill includes statements of legislative intent suggesting that these lands were river bed turned into fast lands by having fill placed upon them, and therefore are titled in the Commonwealth. The Bill also provides that lands transferred pursuant to the authorization shall be subject to a deed restriction that limits activities on the lands to “maritime purposes,” defined as “activities related to the handling, import, export and or transport of cargo or the transport of passengers within and through the Port of Philadelphia...”

I have been advised by DGS that it does not believe that the Bill’s finding that the Commonwealth holds title to the 305 acres is correct. Rather, DGS believes that the Philadelphia Authority for Industrial Development (PAID) actually holds title to the 305 acres in question. In fact, last year when a portion of the property was under consideration as the site of the Food Distribution Center, DGS was in direct negotiations with PAID through PIDC for a lease of the property. Not surprisingly, PAID and PIDC agree with DGS’s assessment and PAID has, over the course of the past couple of years, made transfers of land

and has granted long-term leases and development contracts to private entities based on that belief. In addition, title companies have recently issued millions of dollars of title insurance with respect to those transfers and grants, also based upon PAID's title to the property.

PIDC and PAID further assert that if Senate Bill 740 becomes law, the title dispute and the deed restrictions the Bill requires will place a cloud on title to the 305 acres, invite litigation, and delay further development at the Navy Yard and perhaps Southport as well. PIDC and other entities involved in development activities at the Navy Yard have requested that I veto the Bill in light of these concerns. I agree that uncertainties concerning title to the Navy Yard lands in question could threaten current development plans and hamper future development and, therefore, I have no choice but to veto the Bill.

The authors and proponents of Senate Bill 740 believe – correctly – that the transfer of 100 acres of land at the Navy Yard from PAID to PRPA is essential in obtaining significant interest in the future lease of Southport. I agree and understand their anxiety. Therefore, at my request, the Mayor of Philadelphia, Michael Nutter, has agreed that PAID will enter into an agreement of sale for those 100 acres to PRPA for no consideration, which will meet the goals of the speedy development of Southport. I am attaching a copy of the Mayor's letter which spells out this commitment. Additionally, the Mayor's letter indicates that the City will convey the needed riparian rights to PRPA around Piers 122 and 124 that are also included in the Bill.

The ongoing revitalization of the Navy Yard has brought hundreds of new jobs and significant investment to the City of Philadelphia and the Commonwealth, and the Southport transaction represents the future of the Port of Philadelphia – it will be a significant job creator and economic development engine for the region. Future development of the 305 acres – including planned PIDC development and PRPA plans for Southport – will require certainty that PAID holds title to the lands it intends to develop, and that PRPA holds title to the Southport lands. The viability of these initiatives could be threatened if this Bill is enacted with the General Assembly's findings that title to the 305 acres may in fact lie with the Commonwealth instead of with PAID.

I very much regret that my veto of SB 740 will mean that the five non-port related actions the legislation authorizes will also fall. However, I will work with the General Assembly when it returns for passage of the legislation needed for those worthy projects in a timely fashion.

EDWARD G. RENDELL

Veto No. 2008-4

SB 1258

October 17, 2008

To the Honorable Senate of
the Commonwealth of Pennsylvania:

I am returning SB1258 without my signature. If signed into law, this legislation would result in higher property taxes for Pennsylvania's homeowners, small business owners and farmers.

SB1258 essentially eliminates the basic right of school districts and municipalities, through a process known as "reverse appeals," to challenge assessments when a property is dramatically under-assessed. When these few property owners pay less than their fair share, it forces homeowners and other property taxpayers to have higher property taxes and face higher than necessary millage increases.

I am forced to veto this bill for the same reason that I vetoed SB 1247 and HB 1438 in July: because this legislation would drive up property taxes for those least able to afford it. However, the legislation that I am returning to you today is even worse than its predecessors. In addition to all of the problems with the prior bills, SB 1258 applies retroactively to eliminate virtually all reverse appeals that school districts and municipalities have lawfully filed in the last three and one-half months – even those against properties that are drastically under-assessed. As a result, efforts currently underway to save property taxpayers millions of dollars would be stopped in their tracks.

We ask our school districts to do a great deal and we have not provided them with enough revenue to accomplish these goals. This is in great part due to the state not living up to its historic commitment of funding 50% of education costs, and as a result school districts are overly dependent on property taxes. In this context, limiting the appropriate distribution of the property tax burden among all property owners is both unfair and unwarranted. With the limitations in law on the ability to raise millage that we adopted in 2006, it is more important than ever that properties that are severely under-assessed are paying their fair share.

The authors and proponents of Senate Bill 1258 believe that spot re-assessments are unfair to new homeowners and new businesses. Because I believe that there is some merit to this point of view, I expressed my willingness to work with the prime sponsors of both bills on a workable solution in my veto messages last July. I am disappointed that I am forced to veto this bill, because I believe it represents a missed opportunity. After months of work, my Administration, members of both parties and chambers, and key stakeholders reached a compromise that would protect new homeowners from unfair reverse appeals while simultaneously looking out for the interests of all taxpayers by preserving the ability of school districts and municipalities to ensure that everyone pays their fair share of property taxes.

This compromise legislation that all parties agreed to was adopted by the Senate late last month in Senate Bill 1258 Printer's Number 2410 by a bipartisan vote of 37-13 and was sent to the House. The version of the bill which passed the Senate – and which I would have gladly signed into law – would allow school districts and municipalities to file reverse appeals in only a limited number of specific instances:

- Following a county-wide reassessment;
- If the property or parcel has been divided into smaller parcels;
- If improvements have been made to the property or if improvements have been removed or destroyed; or
- If the property is significantly under-assessed, as measured by either:
 - 1) the property's assessed value, after adjusting for the county's common level ratio, being at least \$200,000 less than its actual market value; or
 - 2) the amount of additional tax revenue the property would generate following the reverse appeal being at least \$5,000.

As the Pennsylvania School Boards Association, Pennsylvania Association of School Business Officials and Pennsylvania Association of School Administrators wrote to members of the House: "We believe that having the tool of reverse appeals in [the most egregious] instances is part of our responsibility to protect property taxpayers." This sentiment was seconded by the Pennsylvania State Association of Township Supervisors, which told House members that SB 1258 in its current form "would force taxpayers to pay an unfair portion of property taxes by subjecting them to unnecessarily high millage increases."

I agree, and the compromise legislation that passed the Senate would accomplish the goal of stopping spot reassessments for the vast majority of new homeowners and businesses, while at the same time protecting the interests of all property taxpayers and ensuring critically needed resources for our schools.

I have worked for years to cut property taxes for Pennsylvania homeowners and due to those efforts last July property taxpayers across the state had their property taxes reduced with state funds for the first time in more than a decade. And unlike previous property tax reductions paid for with state funds, these reductions will recur annually. SB 1258 is incompatible with the goal of property tax relief for all homeowners. I therefore return it without my signature. If the agreed-upon compromise version of Senate Bill 1258 that passed the Senate is sent to my desk, I will gladly sign it.

EDWARD G. RENDELL