

Appealing Property Tax Assessments in a Slow Real Estate Market

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Are you paying more in property taxes than you have to? Virtually every property in Georgia is assessed an ad valorem tax, which, as the name implies, is based upon the tax assessor's valuation of that property. The county's Board of Assessors (BOA) will appraise a property and assess a tax on 40 percent of the appraised value to create a tax bill. While the system may vary among counties, most BOAs use a "best guess" approach to assigning values to property. Historic sales prices may be considered too, as a guide, which causes assessment valuations to lag behind market values by a few years. During the real estate boom of the first half of the decade, property owners benefitted from this system, as many properties were valued less than the current fair market value.

As property values across the metro area stabilize and even decrease significantly in some places, BOAs face political pressure to increase the county's budget through tax revenue and are catching up their valuations with sales prices from a few years ago. In many cases, this has caused the assessed value of the property to exceed the current fair market value of the property, resulting in some taxpayers paying higher tax bills that are not supported by the underlying value of the property. One of the easiest ways a builder or developer can cut the carrying costs of holding property is to request a reduction of the property tax assessment.

Start by making a property tax return. Every property owner is expected to file a property tax return on or before April 1 of each year, except for a few counties that shorten the deadline to March 1. The return is submitted to the BOA for the county in which the property lies and states the owner's opinion of the fair market value of the property. While every person is supposed to file a return on every property every year, Georgia does not assess a criminal penalty for failure to do so. Rather, the state will presume

that any previously filed returns carry forward at the same value. A filed property tax return is the owner's first opportunity to alert the county of a decreased value.

The BOA reviews returns submitted by taxpayers. If it determines that the property should be assessed at a different value from what was the assessed value the previous year or what was listed as the value on the property tax return, it will send the owner an Assessment Change Notice. Assessment appeals are made to the BOA within 45 days of the sending of the notice, except in limited situations, which may require a 30-day appeal deadline. The appeal notice must be in writing, identify the property, contain the property's tax identification number and state the grounds of the appeal.

The BOA must make a written decision to the appeal, which can take one of three forms:

1. The BOA may accept the valuation claimed by the owner, in which case the appeal is concluded.
2. The BOA may make no change to the assessment, stating the reasons for the denial. This results in an automatic appeal to the Board of Equalization (BOE) without any further action by the taxpayer.
3. Lastly, the BOA may make an altogether separate valuation that constitutes a middle ground between the assessed value and the

taxpayer's claimed value. In this scenario, the owner may accept the decision of the BOA or file an appeal of the decision with the BOE in writing within 21 days.

If the county fails to respond to the appeal within 180 days, the appeal will be automatically referred to the BOE. Upon receipt of the notice of appeal, the BOE must set a hearing. Hearings on contiguous properties owned by the same owner may be consolidated at the request of the owner. At the hearing, the BOE will inquire into the uniformity of the assessment with comparable properties. The decision of the BOE must be issued in writing, stating the grounds of the decision. If the BOE grants the owner's appeal, any monies paid by the owner will be refunded to the owner, with interest not to exceed \$150.

The owner may refer the appeal to arbitration in lieu of the BOE hearing. The owner or the county may appeal the decision of the BOE or the arbitrator to the Superior Court within 30 days from the issuance of the BOE or arbitrator's decision. This appeal constitutes a de novo action, meaning the Superior Court will conduct a new trial and not just review the evidence considered by the BOE or arbitrator.

Tax appeals are exceedingly deadline oriented. As such, a property owner should seek legal help early in the appeal process.

