

GM BERKSHIRE HILLS LLC V. BERKS CO. BD. OF ASSESSMENT: AFFIRMING THE RIGHT OF SCHOOL DISTRICTS TO INITIATE PROPERTY TAX ASSESSMENT APPEALS

The Supreme Court of Pennsylvania recently heard arguments in *GM Berkshire Hills LLC v. Berks Co. Bd. of Assessment*, a lawsuit challenging taxing bodies' ability to file tax assessment appeals against recently sold properties. On February 28, 2023, the Supreme Court issued its decision and, in a significant win for school districts, ruled that taxing bodies may continue to file assessment appeals against properties when a recent sale indicates the property is under-assessed.

By way of brief background, this case was commenced by a property owner after the local school district challenged the property's assessed value. Specifically, the property owner alleged that the school district's policy of appealing recently sold properties that appeared to be under-assessed by at least \$150,000 violated the Uniformity Clause of the Pennsylvania Constitution. The Uniformity Clause provides that taxation must be uniform upon the same class of subjects. The property owner argued that the district's policy violated the Uniformity Clause because it treated recent purchasers differently than those who had not recently purchased their property.

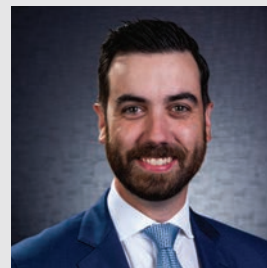
The Supreme Court rejected the property owner's argument and instead ruled that the Uniformity Clause is only violated in two circumstances: (i) where a property's assessed value is raised to its fair current market value without application of the Common Level Ratio (CLR); and (ii) where a taxing body only files assessment appeals against one type of property —

e.g., only appealing commercial properties. The Court went on to explain that the use of monetary figures and recent sales data tends to enhance uniformity, as it selects for appeal the most non-uniform properties about which reliable information is readily available.

As noted above, this case represents a significant victory for taxing bodies, especially school districts. School districts routinely face accusations from aggrieved property owners that their practice of appealing recently sold properties violates the Uniformity Clause. Not only does this decision effectively squash that argument, it also ensures that this practice may continue.

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As a solicitor, Jake has considerable experience with assisting school and municipal clients with reviewing and responding to requests for public records under Pennsylvania's Right-to-Know Law, and handling real estate assessment appeals before the Allegheny County Board of Property Assessment Appeals and Review and Board of Viewers.