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STATEMENT FOR THE SENATE FINANCE COMMITTEE  
SENATE BILL NOS. 1247 AND 1258  
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We are national directors of the Property Tax Services group of Cushman and Wakefield, one of the largest full service commercial real estate firms worldwide. Our practice is headquartered in Philadelphia and our company has extensive consulting experience regarding tax appeal matters on behalf of corporate taxpayers nationwide and specifically in Pennsylvania. However, we are here today not as representatives of Cushman and Wakefield but on our own behalf as real estate professionals with expertise in property tax issues under consideration by this committee.

We have reviewed the proposed legislation in light of the much publicized concerns which have been expressed about the exercise of the school district's right to file reverse appeals. We understand and appreciate these concerns and make particular note of the so called "welcome stranger (neighbor) appeals" which often result in a lack of uniformity in taxation between residential properties recently sold and comparable properties which have not been sold. This specific incidence clearly warrants review and further discussion.

Reverse appeals for residential properties often create uniformity issues due to the obvious homogeneity of this property type. Houses may vary to some extent in terms of age and condition, quality of construction and interior finishes. However, the major variance in this property type which has the greatest influence on value is the square footage of the building improvement and size of the lot with some consideration for location. In this manner, a successful reverse appeal on a residential property subsequent to sale may create a transparent inequity with comparable properties in the same neighborhood. On balance, the similarities between residential properties far outweigh their differences after adjustment for the size of both the house and lot.

The issue of homogeneity does not apply to commercial properties, however, due to their unique and wide ranging characteristics. As such, the inherent inequities typical of residential properties with respect to reverse appeals do not apply to commercial properties. In using the classification "commercial properties", we are referencing all taxable properties other than one to four family residential dwellings. Such commercial properties include but are not limited to retail, office, industrial, apartment and special use properties. Consistent with the uniqueness of commercial properties, there are numerous sub-categories within each of the previous commercial property types. For example, the retail property class is comprised of various sub-categories, each of which exhibit distinct characteristics which affect market value and therefore property assessment. Such sub-categories of retail include shopping centers (regional, community, neighborhood, power, lifestyle, etc.) and free-standing retail facilities (department store, drugstore, bank, fast food, etc.). In addition, each specific property within a given sub-category is further differentiated by its age and condition, quality of construction, design, tenant mix, creditworthiness of tenancy, lease terms, rental rates, vacancy level, operating expenses, location and site characteristics among other considerations. In this manner and as previously stated, each commercial property is unique and, therefore, not subject to the homogeneity issues typical of residential properties. For this reason, it is not unusual for commercial properties which may be seemingly similar to in reality have significantly different market values which must be reflected in their relative assessed values. Unfortunately, our experience indicates that in far too many instances this is not the case.

At first glance the subject proposed legislation would appear to favor taxpayers. It is ironic, however, that the net result of this legislation will likely be quite to the contrary. It is only fitting that the individual commercial property owner/taxpayer have the right to seek a reduction in taxes when warranted. It is equally fitting that the school district -- which transitively represents the interests of all taxpayers -- be provided the same right of appeal to seek an increase in taxes for commercial properties when and if so warranted. The result of the Senate bills currently under consideration by this committee will effectively remove the school district's current right to

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represent taxpayers in this manner and in so doing will compel all taxpayers, of which the vast majority are homeowners, to suffer the consequences. For it is primarily the tax paying homeowner who will be required to bear the tax burden for the owners of under-assessed commercial properties.

It is our opinion that equity in the distribution of the tax burden is best served by providing both the taxpayer and school district equal rights to appeal assessments. As we are all aware, there have been an increasing number of successful appeals for commercial properties throughout the state which have severely reduced school district revenue. As such, school districts are scrambling to make up for lost revenue finding themselves in the uncomfortable position of deciding between increasing taxes levied upon already overburdened homeowners and/or reducing much needed services. In this manner, it is our opinion that the taxpayer will ultimately suffer if the school district's current right to appeal under-taxed commercial properties is legislatively removed.

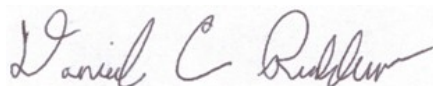
It has been suggested that filing reverse appeals on commercial properties might drive away existing employers and dissuade new businesses from locating in a given district. It is our experience that manufacturing facilities -- which provide long standing, good paying jobs -- are typically not under-assessed due to the nature of such facilities and therefore would not typically be the subject of a reverse appeal. In fact, manufacturing properties are often the subject of assessment reduction appeals wherein the owner is seeking much needed tax relief as necessary to remain competitive. It is our opinion that the viability of other commercial property types will not be materially affected if, as a result of a reverse appeal, the taxes on such properties are increased as necessary to be consistent with its fair share of the tax burden. It is important to note that reverse appeals are only intended to bring under-assessed commercial properties into conformity with current market values. Pursuant to the formal appeal process, such properties will not assume a tax burden beyond that which is warranted by its property value.

There are many precedents in Pennsylvania and in other states which support differing tax treatment of properties of different classes and even of properties within the same class. The examples in Pennsylvania include such tax relief programs as KOZ, LERTA, Homestead and Farmstead exclusions. As such, there may be precedent to approach the issue of reverse appeals in a different manner for residential and commercial properties. We would suggest, therefore, that if modifications must be made to the school district's current right to appeal, that every effort be made to maintain these rights with respect to commercial properties.

Eliminating the school district's current right to appeal under-assessed commercial properties will not only have a significant negative impact on school districts but also will have an unfavorable effect on homeowners due to increased taxes and/or reduced services. When considering the issue at hand, one must be ever mindful of the potential for erosion in the quality of education if the school district is deprived of much needed revenue generated through its long-standing right to file reverse appeals on under taxed commercial properties.

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The following case study represents an example of inequities in taxation which can and will occur if the school district's current right to file reverse appeals is eliminated.

#### Case Study – Value Added Investor

Our case study involves the sale of a large office building in poor condition characterized by a combination of high vacancy, below market rents and above average operating expenses. Based on difficulties associated with the property, the owner elected to sell the office building for \$35 million to an out of state investor. The implied market value for taxation purposes at the time of sale was \$50 million generating tax revenue of \$833,000.

The purchaser is referred to in the industry as a "value added investor". Such an investor seeks to acquire underperforming commercial properties to which the investor can add significant value. This is accomplished through a concentrated effort involving professional management and targeted marketing incorporating a strategy to address selected items of deferred maintenance, increase occupancy and raise rents to market levels thereby enhancing revenue while reducing expenses.

As part of the effort to reduce expenses, the value added investor seeks to obtain a significant reduction in real estate taxes. Therefore, the new owner filed a tax appeal immediately after purchase citing below market cash flow resulting from the property's many problems including high vacancy, low rents, excessive expenses and poor condition. The county, municipality and school district all acknowledged in good faith the reasonableness of the owner's request for tax relief and agreed to reduce the implied market value to \$35 million resulting in a tax reduction of \$250,000 per year. The school district's loss in revenue resulting from this appeal was approximately \$175,000 per year which was subsequently passed onto the taxpayers by virtue of a millage rate increase.

Over the months that followed, the new owner implemented his investment strategy which included hiring a professional management team, retaining the services of large commercial leasing agency and investing sufficient capital to make extensive aesthetic improvements to the property. Within an 18 month timeframe, the value of the property had been effectively increased by 50 percent resulting from a substantial increase in net income pursuant to the success of the owner's efforts. The property was subsequently listed for sale at \$55 million and was purchased by an investment firm for \$50 million. The time period between acquisition and disposition was approximately 24 months and resulted in a profit of \$15 million representing an annual return in excess of 20 percent per year.

The tax assessment subsequent to the original appeal was \$35 million. The tax assessment was never increased by the county notwithstanding the dramatic increase in the property's value as there was no triggering event which permitted a re-assessment. Even the sale at \$50 million – a full \$15 million above the implied value – was not sufficient to warrant an adjustment of the taxes to appropriate levels. In this manner, the taxpayer continues to subsidize the original tax reduction for this property despite the fact that it is no longer justified.

The previous real world example exposes the dire need for checks and balances in the establishment of tax assessments for commercial properties during the time period between county wide revaluations. The good news is that in Pennsylvania, such checks and balances already exist by virtue of the school district's right to file reverse appeals. In the previous example, the school district could have filed an appeal to force a revisit of this property's assessment after it was renovated and its value enhanced. In this manner, there is a mechanism in place in Pennsylvania to level the playing field which provides the taxpayer with some hope of reversing the inequities associated with under-assessed commercial properties.