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REAL ESTATE TAX APPEALS

# ALERT

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## TAKING THE LEAD (AGAIN) TO PROTECT PHILADELPHIA TAXPAYERS

By Jeffrey M. Herskowitz

Fox Rothschild has filed a class action on behalf of the owners of approximately 1,240 properties located in the City of Philadelphia (the City) and the class of all real property owners in the County of Philadelphia (collectively, Taxpayers), in a concerted effort to challenge and invalidate recent legislation known as 53 Pa.C.S.A. § 8565 (the Statute) and Philadelphia Ordinance No. 120175-AA as well as Code Provisions 19-1301(1)(b) and 19-1801(2)(b) (collectively, the Ordinance), which purport to “adopt” an artificially high Established Predetermined Ratio (EPR) for the 2013 tax year. *Gerald S. Kaufman Corp., et al v. Commonwealth of Pennsylvania, et al*, was filed in Commonwealth Court at 652 MD 2012. Significantly, while the Statute expressly recognizes that real estate tax assessment in the City has become “increasingly at variance with principles of uniformity and sound assessment,” 53 Pa.C.S.A. § 8565(a)(1), it arbitrarily incorporates knowingly inaccurate 2011 property values and 2009 sales data as the foundation for the new EPR. In so doing, Taxpayers allege that the Statute and Ordinance have undermined the integrity of the assessment process by eviscerating Taxpayers’ fundamental rights to uniformity in taxation.

According to the Taxpayers’ Verified Petition for Review filed on October 26, 2012, the Statute and Ordinance constitute an unprecedented use and abuse of

legislative power by, among other things, incorporating improper and unreliable 2011 property values and 2009 sales data in an effort to achieve a desired financial benefit for the City at the expense of the Taxpayers. Moreover, the Statute and Ordinance have prevented Taxpayers from having their property assessment conform to the Common Level Ratio (CLR) to cure any lack of assessment uniformity, and ensure that Taxpayers pay no more and no less than their fair share. By mandating use of the EPR rather than the CLR, Taxpayers have been subjected to an unfairly high tax burden and denied the right to file appeals seeking application of the CLR. Taxpayers further allege that the City’s unlawful action in manipulating the system to further its own interest to the significant economic detriment of the Taxpayers, is in direct contravention of the procedural and substantive constitutional protections afforded to property owners under the law.

We are prepared to pursue all available remedies for our clients and will continue to monitor and provide updates on this important matter of constitutional significance.

If you have any questions regarding this Alert, please contact Jeffrey M. Herskowitz, co-chair of Fox Rothschild’s [Real Estate Tax Appeals Practice](#), at 609.572.2327 or [jherskowitz@foxrothschild.com](mailto:jherskowitz@foxrothschild.com).



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