

## **Response to the Abell Foundation Report on Commercial Assessments in Baltimore City by the State Department of Assessments and Taxation**

The Department of Assessments and Taxation would like to thank the Abell Foundation for the opportunity to comment on Commercial Property Assessments in Baltimore: A Costly Problem – A Strategic Opportunity.

### **THE DEPARTMENT OF ASSESSMENTS AND TAXATION IS AN INDEPENDENT STATE AGENCY**

The Department of Assessments and Taxation is an independent State agency and part of the executive branch of government. The mission of the Department is to fairly value all real and personal property in the State of Maryland. The maximizing of revenue for the State or local governments is not a goal of the Department. By the fall of 1972, the Governor and General Assembly had decided that assessments performed by counties were not working in Maryland. Sporadic reassessments, a class action lawsuit charging that all properties were not being reassessed uniformly, and a 100% increase in Baltimore County as a result of the first reassessment in a decade were enough to support a State takeover. The goals of the State takeover were: 1. to insure adequate funding of the assessment function, 2. to insure strong administrative control of the assessment function, 3. to insure adequate and uniform training of all appraisal staff, and 4. to insure economies of scale, and uniformity of valuation records, data processing and all methods and procedures used in the valuation process. All of these changes were implemented by July 1, 1975.

### **SALES PRICES FOR PROPERTIES WHICH SELL OUTSIDE OF LAND RECORDS IS NOT PUBLIC INFORMATION**

On page 1 of the report, two sale properties are listed: the First Union Building and the Candler Building. While the First Union Building sold by deed, the Candler Building has transferred twice by the sale of the controlling interest of the entity which owns the property. Several times in the report, the transferring of commercial properties without recording a deed is dismissed as unimportant. The report indicates that there may be a slight decline in recordation and transfer tax revenues but that these sales do not constitute a large number of properties. While it may not be a large number of properties compared to the over 200,000 sales which occur annually across Maryland, more and more benchmark properties are selling in this manner. Obviously it is an issue if 50% of the properties highlighted on the first page of the report have sold without the recordation of a deed. As more and more higher-priced properties sell without recording a deed, the number and quality of commercial sales declines which affects assessments. While the author contends that there are two other methods for valuing properties: the cost and income approaches to value, the cost approach can indicate a value for buildings but does not indicate a land value. The income approach is based upon the relationship between value and the income produced by a property. By simply knowing what the income is but not the relationship between income and value, the income approach becomes difficult to defend.

## **TRIENNIAL ASSESSMENTS ARE THE LAW**

In Maryland, each property owner receives an assessment notice once every three years. The assessment is supposed to be an estimate of the value of the property at the time of the notice. If the market increases significantly after the assessment, by the end of the three year period, the assessed value is going to be below current sale prices. The Department is not charged with estimating what the property value will be for each of the years of the assessment cycle, the assessment is a “snapshot” of the value at a point in time. The report complains about sale prices being considerably above assessed values. In fact the two “sales” highlighted on the first page of the report occurred well after the date of the assessment. Both the First Union Building and the Candler Building were valued in September 2000, before the beginning of the current real estate boom, and the sales occurred in January 2003. These sales were then used for the subsequent valuation of the buildings which occurred in August 2003.

Beginning on page 25, the timeliness of the triennial process is discussed and the trending of sales is advocated. Without the sale of the same or similar properties over time, any trend which would be applied could be argued as capricious. Trending of sale prices is fraught with danger. The Department is interested in placing a fair market value on the property. While it may be in the interest of the City of Baltimore to maximize assessed values, the Department wants to place a fair and uniform value on all properties.

## **REPORT RECOMMENDS IDEAS AGAINST THE LAW IN MARYLAND**

On page 3 of the report, the author mentions “anecdotal evidence” of undervaluation of residential properties. This “evidence” is noted at the end of the report as coming from a communication from the administrator of the Property Tax Assessment Appeal Board (PTAAB) to a Delegate in Western Maryland. The Department has reviewed the entire report by the PTAAB administrator. None of the properties referred to in the PTAAB report were in Baltimore City. The report contends that properties should be reassessed at the time of sale which is against the law in Maryland. The PTAAB report included sales which never occurred, sales which occurred long after the date of valuation, and sales which were listed more than once.

Unfortunately, the advocacy for the PTAAB report is not the only instance when the report suggests an idea which is contrary to the law in Maryland. On page 6, the report promotes equalization. Maryland is not an equalization state and equalization is against the law in Maryland.

The report suggests that the Department of Assessments and Taxation is organized in a fashion that is antiquated. The Department is organized as the law currently requires: a local assessment office in each county seat. Throughout the Tax-Property Article of the Annotated Code of Maryland, the responsibility for all assessed values rests with the Supervisor of Assessments for the individual jurisdiction. Recommending the centralization of commercial assessments would remove this

authority from the local Supervisor. While the Department does have some commercial assessors who work in multiple rural jurisdictions (Garrett/Allegany, Cecil/Kent, Caroline/Queen Anne's), there are not "redundant" assessors throughout the State. The Department agrees with both the Abell Foundation and PTAAB reports that there needs to be an increase in the number of assessors. However, the Department competes with other programs for precious tax revenues.

### **GENERAL ASSEMBLY PASSED BILL PREVENTING MONTGOMERY COUNTY ADVOCATE'S OFFICE FROM PURSUING OUT-OF-CYCLE ASSESSMENT APPEALS**

The report commends the job done by the Montgomery County advocate in attempting to increase assessments. Senate Bill 208 of 2002 passed unanimously in both the House of Delegates and the Senate. In the purpose paragraph, the following phrase was added: "declaring that certain actions of local governments are contrary to the triennial assessment system and uniformity of taxation". This bill was made emergency legislation to force Montgomery County to cease appealing assessments when sales occur as soon as it was signed into law by the Governor. The language added to the purpose paragraph is a strong indication of the opinion of the legislature toward the concept of tax base maximization by local governments.

### **OVERSIGHT OF SDAT EXISTS**

The author suggests that the Department of Assessments and Taxation lacks transparency and independent oversight. The Department has oversight from several groups and in several areas. Property owners are invited to appeal their assessments if they feel the value is incorrect. The three levels of appeal allow not only the property owner but also two independent State agencies, the Maryland Tax Court and the Property Tax Assessment Appeals Board to examine the job done by the Department of Assessments and Taxation. However, it is unfair to judge the quality of the job done by the Department of Assessments and Taxation based upon decisions by other State agencies.

There are also regular audits by the Department of Legislative Services. One of these audits occurred during the summer of 2004. While the report contends that the sales used in the ratio report were not available to be examined, these sales were examined by legislative auditors in the summer of 2004. Furthermore, the author of the report never requested to review the sales used for the ratio report as these are not confidential.

Governor Ehrlich established a task force in early 2004 to review assessment policies and practices. The Department applauds the Governor's interest in fair and uniform assessments.

### **REPORT ADMITS THAT MANY OF ITS RECOMMENDATIONS ABOUT INFORMATION SYSTEMS HAVE BEEN CORRECTED**

On page 14, it is noted that there have been significant recent improvements in information systems made by the Department. However, although an April response to an initial draft pointed out what changes had been implemented, the author leaves in all of the initial complaints and fails to address which issues were addressed. It is unfortunate that the initial response was used by the author to correct some incorrect use of terms, such as the author's confusion over the Homestead Tax Credit versus the Homeowners' Tax Credit, but no recognition was made of advances in access to the internet, advances in data manipulation and exportation with the new CAMA database program, and the storage off all sales information internally for retrieval by assessors.

### **SALES EDIT NOT PERFORMED**

Due to a lack of proper editing of sales, the statistical data presented in the report is flawed. The author was informed of which sales were non-arms length, included personal property, or involved multiple parcels. The author notes that the multiple parcel sales were not corrected because he or his research associates were unable to identify the sales which included multiple parcels. The Department's website clearly notes when a parcel is part of a multiple parcel transaction. The author was also told how to determine what parcels are involved in the same sale. However, a lack of curiosity or competency must have prevented an accurate editing process.

Also, the use of certain statistical measures is based upon a large sample size or a normally distributed sample. The author admits that his sample was purposely selected because it skewed to the left. The mean is more affected by extreme outliers and tends to have a slight upward bias. The weighted mean is overly influenced by outliers, especially if the outliers are higher-priced properties. The price related differential (PRD) is calculated as the ratio between average ratio and weighted ratio. Since both of these measures are greatly influenced by outliers, the calculation of the PRD is further distorted.

### **CONCLUSION**

The Department was not given a final draft to comment on prior to publication. The Department made the Abell Foundation aware of which recommendations of the April draft were already implemented. However, several still appear; it is as though the Department's response was never made.

The Department cares deeply about doing a good job. This includes having fair, accurate, and uniform assessments so that all property owners pay their fair share of property taxes. The Department effectively uses the resources at its disposal and does not squander precious public funds.

Finally, the Department provides information which is helpful to property owners on its website. The Department's website is award winning and receives over two million hits per month. However, there is a disclaimer on the website that "the

Department makes not warranties, expressed or implied, regarding the information”. If appraisers are solely relying on information on the Department’s website rather than verifying and gathering data, this is not a concern of the Department.