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Pennsylvania's Assessment Laws Permitting the Use of a Base Year Method in Property Taxation are Not Facial Unconstitutional, but are Unconstitutionally Non-Uniform as Applied in Allegheny County: *Clifton v. Allegheny County*

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Pennsylvania’s Assessment Laws Permitting the Use of a Base Year Method in Property Taxation Are Not Facial Unconstitutional, but Are Unconstitutionally Non-Uniform as Applied in Allegheny County: *Clifton v. Allegheny County*

**Pennsylvania Constitution—Uniformity Clause—Property Tax—Pennsylvania Assessment Laws**—The Supreme Court of Pennsylvania held that Allegheny County’s base year method of assessment for property tax purposes was unconstitutional as applied because the Uniformity Clause of the Pennsylvania Constitution requires that substantially proportionate taxing burdens be placed upon similarly classified properties within the same taxing district.


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I. THE FACTS OF **CLIFTON**

Pennsylvania’s assessment laws do not call for, nor do they forbid, periodic property reassessments.1 Despite its long history as the chief tax, property taxes have been supplanted by income and excise taxes, though it remains a key source of funding for various

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1. *Clifton v. Allegheny County*, 969 A.2d 1197, 1201 (Pa. 2009). Pennsylvania’s assessment laws include the General County Assessment Law, 72 PA. CONS. STAT. §§ 5020-1 to -602 (2009); the First Class County Assessment Law, §§ 5341.1-.21; the Second Class County Assessment Law, §§ 5452.1-.20; the Second Class A and Third Class County Assessment Law, §§ 5342-5350k; and the Fourth to Eighth Class County Assessment Law, §§ 5453.101-.107.
public services. Under Pennsylvania's assessment laws, in order to obtain a property's value for taxing purposes, a county performs an assessment which must be uniform as to all properties within the county.

Pennsylvania's assessment laws have not always been silent regarding periodic reassessments; in fact, before 1982 the laws mandated that each county perform annual assessments based upon real property's actual value. Under these laws, Allegheny County, for reasons not mentioned, was permitted to conduct assessments every three years. The laws requiring annual assessments were not adhered to by the majority of the Commonwealth's counties and the laws were subsequently amended to permit counties to use current market values or a base year method for determining the assessed value of the properties within their jurisdictions. When a county chooses the base year method of valuing properties it reassesses all properties in a given year, the "base year," and then uses the assessed values to determine the properties' taxation in the base year and following years. Such a method does not, however, take into consideration value changes after the base year; thus, a property's actual value may fluctuate while its assessed value remains rigid.

2. Clifton, 969 A.2d at 1201-02.
3. Id. at 1202-03. An assessment is based upon a property's actual fair market value, i.e., "the price a purchaser, willing but not obliged to buy, would pay an owner, willing but not obliged to sell, considering all uses to which the property is adapted and might reasonably be applied." Id. at 1203 n.5 (quoting Downingtown Area Sch. Dist. v. Chester County Bd. of Assessment, 913 A.2d 194, 196 n.2 (Pa. 2006)). The "assessed value" is "[t]he value of an asset as determined by an appraiser for tax purposes." BLACK'S LAW DICTIONARY 1691 (9th ed. 2009). The ratio of assessed value to actual market value must be uniform as to all properties within a county, pursuant to the Uniformity Clause of the Pennsylvania Constitution. Clifton, 969 A.2d at 1202-03 (citing PA. CONST. art. VIII, § 1). For a discussion of what "uniform" means, see infra p. 656.
5. Id.
6. Id. "Base year" means:
the year upon which real property market values are based for the most recent county-wide revision of assessment of real property, or other prior year upon which the market value of all real property of the county is based. Real property market values shall be equalized within the county and any changes by the board of revision of taxes or board for the assessment and revision of taxes shall be expressed in terms of such base year values. 72 PA. CONS. STAT. § 5020-102.
7. Clifton, 969 A.2d at 1203 (citing Downingtown, 913 A.2d at 202-03).
8. Id. There are ways that a property's assessed value can change even without a countywide reassessment, e.g., if a structure is built on a parcel that was vacant in the base year the county board of assessors will alter the value of the property accordingly, though the new assessed value must be equivalent to what the property's assessed value would
Prior to Clifton, Allegheny County had been sued for its assessment methods several times.9 Allegheny County utilized a base year method for valuating assessments in 2002.10 Before that time, the County simply based a property's assessed value on its previous year assessed value and would moderately increase or decrease the former value depending upon whether the property was in an area where values were believed to be increasing or decreasing.11 In addition, an ad hoc process of reassessing entire areas of the county at a time was utilized.12

This process was halted in 1996 when the Board of County Commissioners sought to freeze assessments except for structural improvements to a property.13 This resolution was seconded by the Allegheny County Board of Property Assessment, Appeals and Review.14 The Assessment Board lengthened the freeze to include the 1997 tax year, with the intent for such to be effective for five years or until a new assessment was undertaken.15 This extended freeze was deemed impermissible pursuant to the Second Class County Code in a suit brought by taxpayers in the Allegheny County Court of Common Pleas.16

After the County became a home-rule body in 2000, a new assessment was used for the 2001 tax year, but numerous lawsuits were filed charging that the new assessments were void because they were not properly certified.17 About 90,000 taxpayers appealed their new assessed values.18 The County then conducted a

have been in the base year had the improvements already been made. See generally 72 PA. CONS. STAT. § 5347.1.


10. Clifton, 969 A.2d at 1204.

11. Id.

12. Id.

13. Id.

14. Id. This resolution provided exceptions for new buildings, construction, improvements, and subdivision. Id. The Assessment Board has the duty to make and supervise the making of all assessments in the county. 72 PA. CONS. STAT. § 5452.4.

15. Clifton, 969 A.2d at 1204.

16. Id. (discussing Miller v. Bd. of Prop. Assessment, Appeals & Review, 145 P.L.J. 501 (Ct. Com. Pl. Allegheny 1997)). The Second Class County Code required annual revisions of assessments. 16 PA. CONS. STAT. §§ 3101-5106-A (2009). Judge Wettick ordered the County to update the assessed values for use in the 1998 tax year. Clifton, 969 A.2d at 1204. The County was unable to perform this task, so Judge Wettick modified his order, whereby the County had to undertake a total countywide assessment by 2000 to be used in the 2001 tax year. Id. at 1204-05.

17. Clifton, 969 A.2d at 1205.

18. Id.
yearly reassessment to be utilized in the 2002 tax year.\textsuperscript{19} Thereafter, the County’s Assessment Ordinance was amended in order that the 2002 assessment would serve as the base year for 2003, 2004, and 2005.\textsuperscript{20} New assessments for 2006 were to be established and forwarded to property owners who would have an instant right to appeal.\textsuperscript{21} The chief assessment officer performed a computer-assisted reassessment, which was verified by the International Association of Assessing Officers (“IAAO”), and was to be used in 2006, but this effort was not officially certified and went unused.\textsuperscript{22}

\section*{II. THE PROCEDURAL HISTORY OF CLIFTON}

In October 2005, the County Council passed Ordinance 45, which provided for ongoing use of the 2002 assessment.\textsuperscript{23} The Ordinance did not mention a date for a reassessment to be conducted, but it ordered that an expert study the County’s assessment system in 2009.\textsuperscript{24} Two suits disputing Ordinance 45 were filed, one by appellees Kenneth Pierce and Stephanie Beechaum (the ”Pierce Complaint”) and another by appellees James C. Clifton, Charles and Lorrie Cranor, and Roy Simmons and Mary Lisa Meier (the “Clifton Complaint”).\textsuperscript{25} Originally, the appellees’ com-

\begin{itemize}
  \item \textsuperscript{19} Id. This action was pursuant to the assessment ordinance adopted by the newly formed County Council. Allegheny County Admin. Code § 5-209.10.
  \item \textsuperscript{20} Clifton, 969 A.2d at 1205.
  \item \textsuperscript{21} Id.
  \item \textsuperscript{22} Id. The County Council subsequently passed Ordinance 15, allowing the chief assessment officer to ascertain the value of each property, analyze different neighborhoods for market value increase or decrease, and assign a value limit for each neighborhood—from decrease to no change, and up to an increase of four percent. \textit{Id}. Ordinance 15 was held to violate the County’s Home Rule Charter, the Second Class County Charter Law, Pennsylvania assessment laws, and the Uniformity Clause of the Pennsylvania Constitution, but the 2005 assessment was not certified by the court either. Sto-Rox Sch. Dist. v. Allegheny County, 153 P.L.J. 193 (Ct. Com. Pl. Allegheny 2005).
  \item \textsuperscript{23} Clifton, 969 A.2d at 1206.
  \item \textsuperscript{24} Id.
  \item \textsuperscript{25} Id. The Pierce Complaint included two properties, one in Braddock and another in the Hill District of Pittsburgh, the values of which were significantly lower (almost fifty percent) than the 2002 assessed values still in effect at the time of the complaint. \textit{Id}. The Clifton Complaint included three properties: one was located in Wexford and purchased in 2004 for $532,000, though its assessed value for 2004 through 2006 was $508,000. \textit{Id}. The Wexford property’s 2002 assessed value was $425,400. \textit{Id}. Another property in the Clifton Complaint was purchased in Pittsburgh in 2003 for $730,000 and was assessed at that price in 2005 and 2006, though it was assessed at $466,000 in 2002 and 2003. \textit{Clifton}, 969 A.2d at 1207. The third property in the Clifton Complaint was purchased in Mt. Lebanon in 2004 for $412,500 and its assessed value for 2005 and 2006 was the purchase price. \textit{Id}. The Mt. Lebanon property was assessed at $233,700 in 2002 and 2004. \textit{Id}. The Clifton plaintiffs complained that the use of the 2002 base year unfairly benefits property owners who purchased their homes before 2002. \textit{Id}. at 1207 n.14. They complained that since they
plaints centered upon whether the County was permitted by the Commonwealth's assessment laws to use 2002 actual values for the 2006 assessment.\textsuperscript{26} The trial court sustained the County's objections that sought dismissal of the claims that Ordinance 45 violated state assessment laws.\textsuperscript{27} However, the trial court gave leave to the appellees to amend their complaints to challenge the constitutionality of those same assessment laws, where previously, the appellees had only tangentially mentioned abrogation of the Uniformity Clause.\textsuperscript{28}

The trial court found the base year method of valuation, as provided in the state assessment laws, to be facially unconstitutional because such a process inexorably fosters unduly inequitable results.\textsuperscript{29} Judge Wettick held that by not requiring reassessments, such laws violate the Uniformity Clause because the base year method does not assign to all properties the same ratio of assessed-to-market-value and thereby naturally causes serious inequalities, as well as necessarily prejudicing owners of properties in lower-value communities.\textsuperscript{30} The trial court concluded that the only option for the County was yearly assessments based on present market value, but refrained from ordering a reassessment for the 2008 tax year because of the statewide applicability of its ruling and because the court desired to give the legislature an opportunity to address the problematic system.\textsuperscript{31} The County filed a consolidated direct appeal to the Pennsylvania Supreme Court.\textsuperscript{32}

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\textsuperscript{26} Id. at 1207.

\textsuperscript{27} Id. at 1207. The trial court found that though the County could not freeze assessments as found in \textit{Miller}, 145 P.L.J. 501, it could garner similar results by utilizing a base year method according to the plain language of the assessment laws. \textit{Clifton}, 969 A.2d at 1207 n.16.

\textsuperscript{28} \textit{Clifton}, 969 A.2d at 1207. Specifically, the suits averred that Pennsylvania's base year method violated the Uniformity Clause of the Pennsylvania Constitution. Id. The Uniformity Clause states, "All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws." Pa. CONST. art. VIII, § 1. A nonjury trial was held in December 2006. \textit{Clifton}, 969 A.2d at 1207-08.

\textsuperscript{29} \textit{Clifton}, 969 A.2d at 1208.

\textsuperscript{30} Id.

\textsuperscript{31} Id. at 1208-09. In response to this judicial restraint both the County and the taxpayers filed post-trial motions; the former questioned the order on various bases and the latter requested an immediate reassessment. Id. at 1209. Both motions were denied and final judgment was entered. Id.

\textsuperscript{32} Id. at 1209-10. The jurisdictional statute states:

The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the courts of common pleas in . . . [m]atters where the court of common pleas has held
III. THE PENNSYLVANIA SUPREME COURT OPINIONS IN CLIFTON

A. Chief Justice Castille's Majority Opinion

On appeal, the Pennsylvania Supreme Court began by articulating the requirements of the Uniformity Clause. Chief Justice Castille cited precedent instructing that uniformity does not mean complete equality, but rather that the law requires substantial uniformity as nearly absolute as workable, given the methods with which and the entities upon which taxes are imposed. He noted that approximate uniformity with expected practical disparities is all that is needed in the inexact science of taxation.

The court stated that the taxpayer's burden in showing a taxing statute to be unconstitutional is twofold: first, she must show that the statute produces a classification; and second, that such is unreasonable and not rationally related to any legitimate governmental interest. Justice Castille noted that this burden includes overcoming a correspondingly low level of judicial scrutiny because of the legislature's considerable discretion and power in the area of taxation. The authority to classify, he reminded, is included in the General Assembly's broad powers and will only be negated by a court if a given classification results in impermissibly discriminatory or capricious allocations of tax burdens. He was quick to note, however, that in property taxation the classification is the real property itself; thus, all real property within a taxing district must be taxed at substantially the same ratio of assessed value to market value. Therefore, the opinion went on,
in a case challenging a property tax scheme the court usually must only concern itself with whether a classification exists because any difference in tax liability beyond the anticipated pragmatic disparities will probably be an abrogation of the uniformity requirement.\footnote{40}

Whether a property owner asserts that her property was valued at a higher ratio than surrounding properties as a lone oversight (as before a board of assessment appeals) or that such valuation was the result of a countywide misassessment pursuant to faulty statutes, the burden is roughly similar, explained the court.\footnote{41} The opinion stated that because the Pennsylvania Constitution calls for property assessments to be based as closely as possible on each property’s fair market value, a litigating taxpayer must prove the varying assessments she is challenging as well as how the differing percentages of assessed value to market value violate the uniformity requirement.\footnote{42} The court noted four standards for showing that an assessment system results in insufficiently uniform valuations.\footnote{43}

Justice Castille stated that first the established predetermined ratio (“EPR”) is determined by each county and is the percentage of a property’s market value by which the assessed value is ascertained.\footnote{44} Second, he stated that the State Tax Equalization Board determines a county’s Common Level Ratio (“CLR”), which is the percentage of assessed value to current market value used generally in the county.\footnote{45} Neither the EPR nor the CLR are ultimately of assessed value to market value. See McKnight Shopping Ctr. v. Bd. of Prop. Assessment, Appeals & Review, 209 A.2d 389, 392 (Pa. 1965). But the court has abandoned such an approach and allows differently situated property owners to be taxed differently while maintaining that similarly situated taxpayers may not be taxed differently. \textit{Clifton}, 969 A.2d at 1212-13 (discussing \textit{Downingtown}, 913 A.2d at 201).

\footnote{40} \textit{Clifton}, 969 A.2d at 1213.
\footnote{41} \textit{Id.}
\footnote{42} \textit{Id.} at 1214.
\footnote{43} \textit{Id.} at 1214-17.
\footnote{44} \textit{Id.} at 1214. EPR is defined as “[t]he ratio of assessed value to market value established by the board of county commissioners and uniformly applied in determining assessed value in any year.” 72 PA. CONS. STAT. ANN. § 5342.1. “[T]he EPR is a fixed number that merely fractionalizes assessments and which is generally held constant pending county-wide reassessments.” \textit{Downingtown}, 913 A.2d at 202-03 n.13. Allegheny County intends that a property’s assessed value is equivalent to its market value, i.e., 100 percent or an EPR of 100. \textit{Clifton}, 969 A.2d at 1214.
\footnote{45} \textit{Clifton}, 969 A.2d at 1215. The CLR is calculated by reference to the sales prices of properties sold in a given year compared to their assessed value, so “a county’s CLR will be 70 if the assessed value of properties sold in arms-length sales in a year is 70 [percent] of the total market value of the properties.” \textit{Id.} at 1216.
helpful in determining uniformity, he noted. The Court acknowledged that the third standard, the Coefficient of Dispersion ("COD"), is well accepted as a gauge of uniformity, as is the fourth, the Price Related Differential ("PRD"). After outlining these general standards the court turned to the parties' arguments.

The County first argued that the assessment laws were rationally related to the legitimate governmental interest of the need for the assessment system to be stable and predictable. The County maintained that the base year method was rationally related to this interest because it provided a consistent set of fixed values for a reasonable length of time. Next, the County argued that its application of an EPR of 100 to all properties in its jurisdiction satisfied the Uniformity Clause's minimum requirements. Also, contrary to the trial court's determination, the County maintained that the base year method does respond to market changes because of the statutory mechanism whereby the County's EPR may be replaced by its CLR. The County contended that merely because the base year system does not respond to immediate market changes does not mean it is unconstitutional. Lastly, the County argued that the system does not lead to the widespread inequities found by the trial court, which incorrectly relied on the IAAO standards in making its determination.

46. Id. at 1216. A CLR of sixty could mean that properties in a county are assessed at fifty-five to sixty-five percent of their market value, or it could mean that some properties are assessed at ninety percent while others are assessed at thirty percent, and so the CLR does not, by itself, establish whether systemic uniformity exists. Id.

47. Id. "The COD is the average deviation from the median, mean, or weighted mean ratio of assessed value to fair market value, expressed as a percentage of that figure." Beattie, 907 A.2d at 530 n.7. A higher COD results in a higher variance in assessment ratios. Clifton, 969 A.2d at 1216. A COD should generally not exceed fifteen according to the IAAO. Id. at 1217. The PRD demonstrates either assessment regressivity, where high-value properties are appraised at a lower ratio of their actual values than are low-value properties, or tax progressivity, where appraisals for high-value properties are greater than low-value properties in relation to their actual values. Id. The former occurs with PRDs over 1.03 while the latter occurs under 0.98. Id. at 1216.

48. Clifton, 969 A.2d at 1217.

49. Id. The system, it was argued, must be stable and predictable because of (1) the expense of periodic reassessments and (2) municipalities, school districts, and individual property owners that must budget in advance according to their respective tax incomes or burdens. Id. at 1217-18.

50. Id. at 1218.

51. Id.

52. Id.

53. Clifton, 969 A.2d at 1219.

54. Id. The County also pointed out that its system was adjudged to be more uniform than some other Pennsylvania counties. Id.
Appellees replied that the Uniformity Clause requires present uniformity and is not satisfied if, at some random point in the past, taxes were uniform.\textsuperscript{55} They argued that under the base year system, properties in declining neighborhoods are forced to pay taxes based on higher past values.\textsuperscript{56} Appellees noted the County’s high COD and its PRD of 1.11, which indicates that lower-value properties are taxed at a higher ratio than other properties, and argued there is no proper rationalization for such a scheme.\textsuperscript{57} Appellees claimed that, because real property is to be treated as a single class, there is no legitimate governmental interest advanced by distinguishing between owners with declining or stagnant property values and those with increasing values.\textsuperscript{58} Appellees also disputed the County’s assertions regarding the cost of reassessments.\textsuperscript{59} Appellees contended that the appeals process cited by the County is not meant to address systemic non-uniformity and that such a system may not place the burden on individual taxpayers to remedy it.\textsuperscript{60} As for whether the trial court improperly relied on IAAO standards, appellees noted that the court also used reports by the County itself as well as a federal report, and that the studies using the IAAO standards are factual matters undisputed by the County.\textsuperscript{61} Lastly, appellees maintained that the only constitutional system available requires yearly assessments based on present market value.\textsuperscript{62}

The court began its analysis by stating its holding—that the General County and Second Class County Assessment Laws were unconstitutional as applied in Allegheny County—and distinguishing this holding from that of the trial court, which held the same statutes facially unconstitutional.\textsuperscript{63} Having not yet fully evaluated the standards surrounding facial challenges, nor the

\textsuperscript{55.} Id. at 1220.
\textsuperscript{56.} Id.
\textsuperscript{57.} Id.
\textsuperscript{58.} Clifton, 969 A.2d at 1220.
\textsuperscript{59.} Id. at 1220-21. Appellees noted that regular assessments would cost no more than irregular ones and that the County’s numbers regarding the cost of its previous assessment did not show how much of the cost was used for normal operations and how much was used for the assessment itself. Id. at 1221.
\textsuperscript{60.} Id. at 1221.
\textsuperscript{61.} Id.
\textsuperscript{62.} Id.
\textsuperscript{63.} Clifton, 969 A.2d at 1222. An as-applied challenge is “a claim that a law or governmental policy, though constitutional on its face, is unconstitutional as applied, usu. because of a discriminatory effect; a claim that a statute is unconstitutional on the facts of a particular case or in its application to a particular party.” BLACK’S LAW DICTIONARY 261 (9th ed. 2009).
challenger's burden of proof, the court discussed the United States Supreme Court's recent discussions of these matters. Under even the more relaxed standard of determining whether a statute has a plainly legitimate sweep, the court found that the trial court's conclusion that the statutes are facially unconstitutional fails. The court also noted that the statutes allowing for a base year method could be constitutionally applied in a number of circumstances; in addition, the presumption of constitutionality, the challenger's heavy burden, and the plasticity of the statutes in question prevented the court from affirming the trial court on this point.

Chief Justice Castille began addressing the County's arguments by noting their seeming inconsistency: on the one hand, the County argued that the legitimate state interest it set forth justifies any classification due to the base year system, which seems to admit non-uniformity, but on the other hand, the County rejected non-uniformity by arguing that use of the EPR or CLR adheres to the Uniformity Clause's proportionality principle. The court addressed the latter argument first. The court noted the undisputed evidence that the County's COD and PRD were well outside the acceptable ranges according to the IAAO. Moreover, the undeniable expert testimony produced by appellees, showing the non-uniform changes in market values across the County's municipalities, demonstrated the serious inequities produced by the County's base year method, according to the court. The trial court used these findings and fully appreciated that only substan-

64. Clifton, 969 A.2d at 1222-23. Particularly, the Pennsylvania Supreme Court noted United States v. Salerno, 481 U.S. 739, 745 (1987), which required that a "challenger must establish that no set of circumstances exists under which [an] Act would be valid." Clifton, 969 A.2d at 1222-23. But more recently the United States Supreme Court seems to have only required that a challenger show that a substantial number of a statute's applications are unconstitutional. Id. at 1223 n.36. That is, a facial challenge must fail where a statute has a "plainly legitimate sweep." Id. at 1223 (citing Wash. State Grange v. Wash. State Republican Party, 552 U.S. 442, 449 (2008)).

65. Clifton, 969 A.2d at 1224.

66. Clifton, 969 A.2d at 1225.

67. Id. That is, the principle that taxpayers should pay only their proportionate share of the expenses of government, meaning in the property tax area that each property owner's tax is based on substantially the same percentage of assessed value to market value as others in the district. Id.

68. Id. at 1225.

69. Id. The County's COD was 22.3 in 2005 and 30.2 at the time of the opinion. Id. Its PRD was 1.10 in 2005 and 1.12 at the time of the opinion. Id. The court showed the extent to which property values can change in a non-uniform manner just within one school district, to which the base year system, as applied, does not properly respond. Id.

70. Clifton, 969 A.2d at 1226.
tial—and not exact—uniformity was required, and, the opinion stated, properly concluded that such uniformity was lacking.\textsuperscript{71} Though the court recognized the IAAO standards, this did not suggest, as a matter of law, that departure from one of these standards is determinative for demonstrating lack of uniformity.\textsuperscript{72} Therefore, the court reasoned that the County was mistaken to suggest that use of the standards is improper because they have not been adopted by the legislature; rather, the standards have been used only to supply a true-to-life basis upon which the court may center its judgment that the base year system in Allegheny County is unconstitutional as applied.\textsuperscript{73}

Next, the court denied the County's argument that uniform application of an EPR of 100\% met the Uniformity Clause's requirements.\textsuperscript{74} Pointing out the simple fact that application of the same ratio to the actual values of properties circa 2002, when many of those properties' market values have significantly changed since 2002, is functionally the same as applying different ratios to current actual values, the court held that the base year system failed to guarantee uniformity over time.\textsuperscript{75} Similarly, the court held that use of the CLR via the appeals process is an insufficient method to correct the widespread inequities inhering in the County's assessment system.\textsuperscript{76} The court concluded that the County may not place the burden on individual taxpayers to fix its constitutionally infirm method on a case-by-case basis.\textsuperscript{77} The court also pointed out that the appeals process does little to increase the assessments of under-assessed properties, because the only way to remedy such a problem is for the municipality or school district to challenge the assessment, and this practice varies greatly from community to community.\textsuperscript{78} Lastly, the court recognized the trial court's point that if the appeals process was a sufficient corrective then there would not be dozens of Pennsylvania counties with overwhelmingly unacceptable CODs.\textsuperscript{79}

The court then turned its attention to the County's argument that any non-uniformity in its system was justified by a legitimate

\textsuperscript{71} Id.
\textsuperscript{72} Id. at 1226-27.
\textsuperscript{73} Id. at 1227.
\textsuperscript{74} Id.
\textsuperscript{75} Clifton, 969 A.2d at 1227.
\textsuperscript{76} Id. at 1227-28.
\textsuperscript{77} Id. at 1228.
\textsuperscript{78} Id.
\textsuperscript{79} Id.
It held that because impractical inequities in taxation are prohibited by the Uniformity Clause, the County may not portray the non-uniformity produced by its system's failure to address market changes as a classification in order to pardon it. Even if such a classification were allowed, the court stated that the County gave no justifiable basis for the distinction between property owners in lower-value, declining, or stagnant neighborhoods and property owners in higher-value or appreciating areas. Lastly, assuming that such a distinction would be valid, the court found no logical connection between it and the County's asserted governmental interests in stability and predictability.

The court concluded that a base year system is not inherently unconstitutional, but that it will only become unconstitutional over time. The court refused to state definitively when that point occurs because real estate factors vary from county to county. Rather, the court found that the General Assembly must craft a more thoroughly constitutional scheme. The court remanded the case to the trial court to direct the County in conducting a reassessment.

B. Justice Baer's Concurrence

Justice Baer filed a concurring opinion disagreeing with the majority to the extent that it refused to announce a constitutional limit for reassessments where the legislature did not announce one. He faulted the majority for not determining when a presumption should arise that a county's base year system has become unconstitutional as applied. He opined that this refusal will leave the taxing authorities and property owners of the Commonwealth in the dark as to what is and what is not unconstitutional.

80. *Clifton*, 969 A.2d at 1228.
81. *Id.*
82. *Id.* at 1228-29.
83. *Id.*
84. *Id.*
85. *Clifton*, 969 A.2d at 1229.
86. *Id.* Pennsylvania is the only state where the assessment laws permit use of a base year indefinitely. *Id* at 1231. Twenty-two states require yearly reassessments and twenty-six require reassessments though allow for more than one year to pass. *Id.* The court noted that the General Assembly may consult what other states do as well as refer to the IAAO standards used in the opinion. *Id.*
87. *Id.* at 1231. The trial court was to set a timeframe for the County to reassess. *Id.*
88. *Id.* (Baer, J., concurring).
89. *Id.* at 1232.
Furthermore, he concluded that such uncertainty will lead to interminable litigation and probably to varying findings in the courts of common pleas. Justice Baer maintained that the test the majority should have adopted is the COD, which the IAAO upholds as the most useful gauge of uniformity and which has been an uncontested guide since 1980.

IV. THE PRECEDENT LEADING TO CLIFTON

One hundred years and one month prior to its opinion in Clifton, the Pennsylvania Supreme Court explicated the requirements of the Uniformity Clause for purposes of property taxation. In Delaware, L. & W. R., the appellants had complained that the trial court erred by including the value of personal property in its determination of the assessed value of appellants' coal lands. Because the trial court and counsel agreed upon a method where, first, the ratio of assessed to actual value of nearby real estate would be ascertained, then, second, the actual value of appellants' coal lands would be determined, and, third, the same ratio applied, the court could not then abandon this method by including the personal property in its valuation. The court concluded that different uses of real property—farming, manufacturing, or dwelling—could not be assessed at different rates because taxation

90. Clifton, 969 A.2d at 1232 (Baer, J., concurring).
91. Id.
92. Id. at 1234. Justice Baer also faulted the majority for not exercising its responsibility to supply a constitutional framework for determining violations of the Uniformity Clause. Id. at 1233. He cited cases for precedent that courts may act in areas where the legislature has not. Id. at 1233-34 (discussing, inter alia, Bartlett v. Strickland, 129 S. Ct. 1231 (2009); Planned Parenthood v. Casey, 505 U.S. 833 (1992); Commonwealth v. Miller, 888 A.2d 624 (Pa. 2005)). Justice Baer interpreted these cases for the proposition that the court should not, "in the guise of judicial restraint, abdicate our fundamental responsibility to provide a proper framework for the assessment of actual constitutional violations." Id. at 1234. The majority took issue with the concurrence's interpretation of the cases discussed, finding them inapposite to the case sub judice. Clifton, 969 A.2d at 1229 n.44 (majority opinion). The majority also justified its refusal to adopt a test on the grounds that neither party had argued for the specific measure advocated by the concurrence and noted that its opinion is sufficient to give the General Assembly notice that it must act to remedy the assessment laws to withstand constitutional attack. Id.
93. Delaware, L. & W. R., 73 A. at 430. The court in Clifton quoted the opinion at length to describe the requirements of the Uniformity Clause. Clifton, 969 A.2d at 1210 (quoting Delaware, L. & W. R.R., 73 A. at 430).
95. Id.
must be the same upon the same class of subjects and all real estate is part of the same subject class. 96

Half a century later, the court decided Narehood v. Pearson, 97 where taxpayers alleged that a recent countywide assessment was unconstitutional because the chief assessor failed to follow certain provisions of the assessment law and because the assessments were determined by a base method. 98 The court quickly dismissed the taxpayer's complaints regarding the technical aspects of the assessment law, holding that the assessor's actions were as near the letter of the statute as practically possible. 99 As for the taxpayers' averments regarding the impermissibility of the mode whereby the county fixed a certain dollar amount per acre of surface land, mineral land, or farm land and then based its assessments off of this figure, the court noted that the taxpayers failed to assert that the fixed prices were irrational or more than market value. 100 The court allowed for classification based upon various types of real property and different modes of assessment for each type, and it also held that assessors did not need to be personally familiar with every single parcel to assign values. 101

The taxpayers' most significant argument was that the assessors' failure to value each property at its actual market value, including the amenities of each property, was unconstitutional. 102 Referring to the practice in cities whereby a certain value is applied to each square foot in a given block and adjusted according to any number of variables; the court held that the reasonable application of a uniform value per acre of farm, surface, or mineral land did not violate the Uniformity Clause. 103 The opinion noted that

96. Id. at 432. The court then reversed and remitted to the trial court to find the proper ratio sans personal property. Id.
97. 96 A.2d 895 (Pa. 1953).
98. Narehood, 96 A.2d at 896.
99. Id. at 897. The taxpayers failed to consider the timing of their complaint, in that the assessment laws had been recently revised in 1952; thus, the assessing officers did not have time, nor were they required, to follow every provision to the letter. Id. If technical irregularities persist, the court noted, the taxpayers had opportunity to appeal to the local Board. Id.
100. Id.
101. Id. (citing Hammermill Paper Co. v. City of Erie, 92 A.2d 422 (Pa. 1952)). Though the court in Clifton affirmed its earlier holding that real property must be treated as a single class, it noted that distinctions may be constitutional in certain situations. Clifton, 969 A.2d at 1220. The appellees in Clifton acknowledged this aspect of Narehood as well, but also realized such an issue was not present in Allegheny County, where the only classification was between declining or stagnant properties and those with increasing values, which is not a legitimate classification. Id.
102. Narewood, 96 A.2d at 898.
103. Id.
the fact that taxpayers could appeal to the Board regarding any alleged oversight or mistake solidified the constitutionality of the assessors' methods. The court stated that the adoption of a base standard of value for properties within the same class was a constitutional method since substantial uniformity is all that is required. The court dismissed the taxpayers' complaint, refusing to exercise equity jurisdiction where there was an adequate remedy at law.

Five years later, the Pennsylvania Supreme Court had to address the issue of uniformity again when a property owner's building was assessed at 91.9% of its market value while other similar properties were assessed at 40% to 57% of their market values. The city in Brooks Building had no predetermined ratio that it applied generally to property within the building's class. Because the Superior Court had previously held that if no generally applied ratio could be demonstrated by the complaining taxpayer, then the actual value was conclusive in assessment appeals, the trial court regretfully refused to help the taxpayer.

This rule—that in order to prove a lack of uniformity, the taxpayer had to show a fixed ratio from which the taxing authority departed—was quickly repudiated by the court. Rather, the

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104. Id. 105. Id. at 899. Allegheny County seized upon this statement in its argument in Clifton. Clifton, 969 A.2d at 1218. This proof-text was inapoposite to the court's decision, however, because unlike the assessors in Narehood, the County's de facto classification had no reasonable justification. Id. at 1229. Counsel for the taxpayers in Clifton also paid attention to Narehood, particularly its discussion and approval of Cumberland Coal Co. v. Bd. of Revision of Tax Assessments, 284 U.S. 23 (1931). Clifton, 969 A.2d at 1220. The taxpayers were able to mine a point of law from Cumberland Coal that was readily applicable to the facts of the case, namely that "[a]pplying the same ratio to the same assigned values, when the actual values differ, creates the same disparity in effect as applying a different ratio to actual values when the latter are the same." Clifton, 969 A.2d at 1221.

106. Narewood, 96 A.2d at 900.


108. Brooks Bldg., 137 A.2d at 274.

109. Id. at 274-75. The trial court recognized that such a rule placed an unfair burden on the taxpayer, namely, to show the value of every other property in the taxing district in order to establish a general ratio of assessed to actual value. Id. at 274. The court later reiterated in Deitch Co. v. Bd. of Prop. Assessment, Appeals & Review, 209 A.2d 397 (Pa. 1965), that while a taxpayer should probably only offer evidence of properties of a similar nature in order to show his property's market value, he may reference any property within the taxing district in order to establish whether uniformity of taxation is present. Deitch, 209 A.2d at 402. Because all real estate is a class, any property is considered a comparable for purposes of showing uniformity in the applied tax rate, no matter its market value in relation to the market value of the property in question. Id.; accord McKnight Shopping Ctr., 209 A.2d at 393.

110. Brooks Bldg., 137 A.2d at 275. The court considered such a rule "unjust and ridiculous." Id.
court maintained that the Uniformity Clause required that properties must be assessed at no more than their market values, nor may they be assessed at a percentage higher than that fixed in the district.\textsuperscript{111} Also precluded was methodical under-valuation of comparable properties.\textsuperscript{112}

The city also argued that because the assessment of the property in question was less than its market value there was no injury, nor violation of uniformity.\textsuperscript{113} Citing Cumberland Coal, the court held that when the requirement of a statute and the requirement of uniformity cannot both be met, the latter must prevail over the former.\textsuperscript{114} Thus, even if the statute requires assessment at a certain percentage of market value, that ratio may not be applied if it would lead to non-uniformity as to the property in question, as compared to similarly situated properties.\textsuperscript{115}

The Pennsylvania Supreme Court analyzed the Uniformity Clause outside of the property tax realm in Leonard v. Thornburgh,\textsuperscript{116} where it reversed the Commonwealth Court's opinion, which held that a Philadelphia wage tax statute violated the Uniformity Clause because it applied different rates to residents and non-residents.\textsuperscript{117} The appellee argued that the Uniformity Clause, and not the Equal Protection Clause of the Federal Constitution applied to the case, but the court replied that violations of either clause are analyzed similarly.\textsuperscript{118} The court noted the broad discretion of the legislature in making classifications for taxing purposes and that taxpayers seeking to invalidate a taxing statute bear a heavy burden.\textsuperscript{119} Where a classification is attacked, the court emphasized, it will be upheld if it is premised on a justifiable distinction that supplies a reasonable foundation for disparate treat-

\textsuperscript{111}. Id (citing Cumberland Coal, 284 U.S. at 28 (1931)).
\textsuperscript{112}. Id (citing Cumberland Coal, 284 U.S. at 28 (1931)).
\textsuperscript{113}. Id. at 276.
\textsuperscript{114}. Id. (citing Cumberland Coal, 284 U.S. at 28-29 (1931) (quoting Sioux City Bridge Co. v. Dakota County, 260 U.S. 441, 446 (1923))).
\textsuperscript{116}. 489 A.2d 1349 (Pa. 1985).
\textsuperscript{117}. Leonard, 489 A.2d at 1351.
\textsuperscript{118}. Id.
\textsuperscript{119}. Id. The court stated "tax legislation will not be declared unconstitutional unless it 'clearly, palpably, and plainly violates the Constitution.'" Id. at 1351 (quoting Commonwealth v. Life Assurance Co. of Pa., 214 A.2d 209, 214 (Pa. 1965), appeal dismissed, 384 U.S. 268 (1966)).
Thus, the court reasoned, if the taxing scheme places unequal burdens on similarly situated persons, it will be deemed unconstitutional. Unlike the illegitimate classification in Clifton, the classification in Leonard was upheld because it reasonably distinguished between residents who have twenty-four-hour access to public services and substantial political representation in city matters, and non-residents, who do not.

In addition to the requirements of the Uniformity Clause, the court has been faced with the issue of whether it could exercise equity jurisdiction when an assessment statute that purportedly provided a legal remedy was constitutionally challenged. In Borough of Green Tree, a municipality and several taxpayers challenged provisions of the state assessment laws which allowed Allegheny County to conduct triennial assessments. Before the parties could argue the case on the merits, the trial court raised the question of jurisdiction because the assessment law provided a statutory appeal procedure. Finding it could not exercise equitable jurisdiction, the trial court dismissed the case.

Upon appeal, the Pennsylvania Supreme Court first had to reconcile two previous holdings—one allowing equity jurisdiction where a taxing statute is attacked on constitutional grounds, the other requiring, in addition, the absence of a statutory remedy. The court reconciled the opposing viewpoints by mainly siding with the latter, while recognizing an exception where a statutory remedy technically exists, but is inadequate or pointless.
Therefore, the court reversed the lower court's decision because the taxpayers' complaint—that the provision allowing triennial assessments was unconstitutional—could not be effectively adjudicated by appeal to the Board of Assessments.\(^{129}\)

This rule regarding equity jurisdiction was implemented several times by the Commonwealth Court in property tax assessment cases.\(^{130}\) Each case began with a challenge to the assessment methods of the given county and ended with that county being ordered to conduct a countywide reassessment.\(^{131}\) The challenges cited various flaws in the counties' methods: subjectively changing building grades without considering structural changes since the previous assessment,\(^ {132}\) choosing to only reassess certain districts while varying the methods of assessment therein,\(^{133}\) using outdated guidelines,\(^{134}\) and reassessing certain properties by merely doubling their value without taking into account the type of real estate involved.\(^ {135}\)

The Commonwealth Court noted that the mere passage of time is insufficient to render a taxing scheme violative of the Uniformity Clause, and that other factors are necessary.\(^ {136}\) The other factors, the court noted, include the objective statistical indicators of uniformity such as the COD, the specificity of procedural guidelines, and the discriminatory effect of the scheme.\(^{137}\) The presence of a high COD played a key role in each of the cases,\(^ {138}\) but the

\(^{129}\) *Borough of Green Tree*, 328 A.2d at 825. The court noted its prior opinions indicated that "the more direct the attack on the statute, the more likely it is that exercise of equitable jurisdiction will not damage the role of the administrative agency charged with enforcement of the act." *Id.*


\(^{131}\) *Millcreek Twp.*, 714 A.2d at 1109; *Ackerman*, 703 A.2d at 84; *City of Harrisburg*, 677 A.2d at 356; *City of Lancaster*, 599 A.2d at 301.

\(^{132}\) *City of Lancaster*, 599 A.2d at 296.

\(^{133}\) *Id.* at 299.

\(^{134}\) *Millcreek Twp.*, 714 A.2d at 1099.

\(^{135}\) *City of Harrisburg*, 677 A.2d at 355.

\(^{136}\) *Millcreek Twp.*, 714 A.2d at 1098.

\(^{137}\) *Id.* at 1098-99.

\(^{138}\) See *Millcreek Twp.*, 714 A.2d at 1107-08; *Ackerman*, 703 A.2d at 87; *City of Harrisburg*, 677 A.2d at 355; *City of Lancaster*, 599 A.2d at 296-97.
court never suggested that this factor alone would be sufficient to establish non-uniformity.\textsuperscript{139}

More recently, in \textit{Beattie v. Allegheny County}, the Pennsylvania Supreme Court had to address whether equity jurisdiction may be properly exercised where a taxing statute is not facially challenged but challenged as applied, and where the challengers did not exhaust administrative remedies.\textsuperscript{140} A class of taxpayers challenged the County's assessment system for over-assessing lower-value properties and under-assessing higher-value properties.\textsuperscript{141}

The trial court in \textit{Beattie} refused to exercise equity jurisdiction.\textsuperscript{142} Similarly, on appeal, the Pennsylvania Supreme Court recognized the importance of the County's argument that non-facial challenges had not been traditionally considered substantial enough for equity jurisdiction.\textsuperscript{143} But it also recognized that the Commonwealth Court had exercised such jurisdiction in \textit{City of Lancaster}, \textit{City of Harrisburg}, \textit{Ackerman}, and \textit{Millcreek Township}.\textsuperscript{144} The court, in effect, approved \textit{Ackerman} and \textit{Millcreek Township}, in that it recognized that there are times—e.g., when inequalities are strongly suspected to be pervasive and the general taxing picture to be non-uniform—that a court may exercise equitable jurisdiction, even in the absence of a facial challenge.\textsuperscript{145} Though those cases were factually distinguishable, the court noted that the relative newness of Allegheny County's assessment did not prove that it was uniform, because there may have been defects in the system used to determine the assessment.\textsuperscript{146} Though

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\bibitem{139} \textit{Millcreek Twp.}, 714 A.2d at 1109 n.16. The court noted “there is no specific requisite level of statistical information for cases of this type and we note the many other factors which necessitate a countywide reassessment throughout this opinion.” \textit{Id.}
\bibitem{140} \textit{Beattie} v. Allegheny County, 907 A.2d 519, 520 (Pa. 2006).
\bibitem{141} \textit{Beattie}, 907 A.2d at 520. Such a system, if proven, would reflect tax regressivity and would be indicated by a PRD over 1.03. \textit{See supra} note 47.
\bibitem{142} \textit{Beattie}, 907 A.2d at 522. Following \textit{Borough of Green Tree}, \textit{supra} note 121, the taxpayers argued that their complaint raised Uniformity Clause and Equal Protection issues and that administrative remedies were insufficient; on the other hand, the County argued such constitutional challenges must be facial and that, because any relevant evidence must be admitted in the administrative appeal, the taxpayers had a statutory remedy. \textit{Id.} at 525-26. The Court noted that the rule requiring administrative exhaustion is judge-made and does not affect the existence of equity jurisdiction but only whether it may be properly exercised. \textit{Id.} at 526 n.5.
\bibitem{143} \textit{Id.} at 527.
\bibitem{144} \textit{Id.} at 528. The court distinguished the cases, because, in contrast to the first two, no particular group had been deliberately treated differently in \textit{Beattie}, and in contrast to the last two, Allegheny County's latest assessment was of recent vintage. \textit{Id.}
\bibitem{145} \textit{Id.} at 528.
\bibitem{146} \textit{Id.}. Both sides recognized the importance of \textit{Borough of Green Tree} and shaped their arguments accordingly; however, the court asserted that that case “did not purport to lay down a per se rule precluding [equity] jurisdiction absent a facial challenge to the go-
equity jurisdiction may be used to hear a complaint issuing an as-applied challenge, the court refused it to the appellant class in *Beattie* because of the weakness of its pleadings and the vagueness of the relief sought.147

V. THE EFFECT OF *CLIFTON*

The *Clifton* court’s decision to hold Allegheny County’s assessment system unconstitutional as applied rather than facially constitutional is laudable and correct, but may prove to be incomplete. The court properly disagreed with the trial court’s conclusion that the provisions allowing a base year method were facially unconstitutional.148 There are, in theory, if not in fact, ways that a base year system could be constitutionally applied.149 The court’s concluding language does tend to put other counties on notice—particularly those that have not conducted a reassessment in decades—that their use of the base year method will likely be found unconstitutional upon challenge by taxpayers.150 Nonetheless, the court could have, and ought to have, set firmer guidelines for determining when an assessment scheme has led to impermissibly non-uniform taxing burdens. In this way, the court’s opinion is incomplete, as indicated by Justice Baer’s concurring opinion.151 The concurrence faulted the majority for not adopting a test which would raise a presumption of non-uniformity once a certain level is met.152 Because the COD has been judicially applied, is readily available, and has withstood the test of time, Justice Baer suggested that once a COD of twenty is found, such a presumption should arise.153 He maintained that failure to adopt such a measure would result in uncertainty for counties and lower courts alike, and would lead to wasted resources, both monetary and judicial.154 Justice Baer marshaled authority for the proposition that setting such a standard is a...
proper move for the judiciary to take in the absence of legislative action.\textsuperscript{155}

Chief Justice Castille's opinion addressed the concurrence in an extensive footnote, primarily distinguishing the cases used by Justice Baer as inapplicable to the present case.\textsuperscript{156} The majority also reasoned that the parties did not ask for a specific measure to be adopted and that it was not the court's place to surmise whether the General Assembly would actually act upon its opinion or not.\textsuperscript{157} In this argument the majority neglects to give due weight to the reality that it had in fact used, and affirmed the trial court's use of, the very standard advocated by the concurrence. Moreover, simply because the taxpayers failed to explicitly request that a specific standard be adopted does not nullify their implicit argument that a COD over twenty should indicate unconstitutional non-uniformity, or at least lead to a presumption of such.

The majority's opinion would not be incomplete in this regard if it were not for the egregious and widespread shortcomings of the Commonwealth's assessment system.\textsuperscript{158} With due respect to the importance of judicial restraint, it is difficult to see how setting a judicial presumption that a COD of twenty indicates non-uniformity would impede the legislature's function in addressing the broken assessment system in the interim. The failure to adopt such a presumption seems to rob the court's opinion of any sense of urgency. This is unfortunate, given its finding that the assessment laws as applied in Allegheny County, and presumably in other counties, tend to harm lower-value property owners the most.

\section*{VI. CONCLUSION}

Subsequent to the court's decision, the County sought a stay of the remand to the trial court which the court denied.\textsuperscript{159} Because the issue presented in \textit{Clifton} was really statewide there were

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\footnote{155. \textit{Id.} at 1233-34.}
\footnote{156. \textit{Id.} at 1229 n.44 (majority opinion).}
\footnote{157. \textit{Id.}}
\footnote{158. As alluded to in the main opinion, the trial court's survey of the assessment laws of all fifty states reveals that, besides Delaware, every other state requires that assessments be "based on current or relatively current market values," and most set a specified number of years in which a reassessment must occur. \textit{Clifton v. Allegheny County, No. GD05-028638, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *77 (Ct. Com. Pl. Allegheny June 6, 2007).} Nearly all states have implemented a state oversight board to ensure their counties maintain proper assessments. \textit{Id.}}
\footnote{159. \textit{Clifton v. Allegheny County, 980 A.2d 27 (Pa. 2009) (per curiam order).}}
good arguments for granting the stay. Nonetheless, the court redeemed its failure to adopt the aforementioned presumption by requiring Allegheny County to proceed under its prior order. In a state where the refusal to reassess is seen as a badge of honor for county officials, or, worse, as a prerequisite to election, it is important for the Court to maintain its stance that Allegheny County's system is unacceptable. If for no other reason, such resolve will hopefully expedite the legislature's addressing of the Commonwealth's arcane system. Although Allegheny County should not have to conduct its third reassessment since 2001 (and possibly a fourth after legislative reform) while its neighbors have gone decades without assessing, the court has done an admirable job of construing the constitutional requirement of uniformity and its Clifton holding, while less urgent than it might have been, has shown signs of sparking legislative reform of the broken property assessment system.

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160. Clifton, 980 A.2d at 212 (per curium order) (Baer, J., dissenting). Justice Baer argued that by denying the stay the Court went against its own conclusion to give the legislature time to act. Id. at 213. He maintained that a stay would prevent unnecessary costs in litigation and reassessments for both Allegheny County as well as taxpayers and governments in other Pennsylvania counties. Id. He found that granting a stay was an acceptable method in Pennsylvania's jurisprudence. Id. at 214-15. The dissent also took notice of the legislature's recent adoption of a resolution to study the assessment schemes of other states as well as its consideration of a moratorium on all court-ordered reassessments. Id. at 216. As to this latter possibility, he noted that serious separation of powers issues may result from a legislative moratorium on a judicial order. Clifton, 980 A.2d at 216.

161. The Pennsylvania House of Representatives adopted a resolution to study the Commonwealth's broken system and "compare it to real property tax systems of other states, including specifically the real property tax reassessment systems of Maryland and California, and identify measures to make the Pennsylvania system more uniform, transparent, cost effective and acceptable to the taxpayer. . . ." H.R. Res. 334, 2009-10 Reg. Sess. (Pa. 2009). Moreover, the House has passed a bill that would impose a temporary moratorium on court-ordered reassessments. H.R.B. 1661, 2009-10 Reg. Sess. (Pa. 2009). The moratorium would last until a study of the Commonwealth's assessment system was conducted and implemented or until June 30, 2011, whichever comes first. Id. The Senate has not yet voted on the bill, though the Finance Committee has approved it. The Pennsylvania General Assembly, http://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?syear=2009&sind=0&body=H&type=B&bn=1661 (last visited Sept. 29, 2009).