

Bond Case Briefs

Municipal Finance Law Since 1971

The NJ Local Property Tax Appeal Filing Deadline Remains Inviolable And Cannot Be Circumvented By Use Of The Intervention Tool.

In *Farmland Dairies, Inc. v. Borough of Wallington*, N.J. Super. App. Div. (per curiam) (unpublished decision) (35-2-7909), the Appellate Division upheld the decision of the Tax Court in denying an unrelated neighboring property owner's efforts at intervening in a pending local property tax appeal between the property owner and the Borough. The court concluded that the intervention application of the putative intervenor was out of time and barred by the statute of limitations. Although all residents of municipalities have standing and maintain the right to pursue tax appeals as "aggrieved" parties under the statute, including those related to their neighbor's properties, any such contests must nonetheless comply with the statutory filing deadline.

The New Jersey Supreme Court has consistently recognized the necessity of complying with filing deadlines in the area of taxation. The statutory scheme establishing the court's jurisdiction in this area is "one with which continuing strict and unerring compliance must be observed." *See McMahon v. City of Newark*, 195 N.J. 526, 546 (2008). Indeed, our Supreme Court has declared that the "failure to file a timely appeal is a fatal jurisdictional defect." *F.M.C. Stores v. Borough of Morris Plains*, 100 N.J. 418, 425 (1985). The Supreme Court has also explained that strict adherence to statutory filing deadlines is of particular concern in tax matters, given "the exigencies of taxation and the administration of local government." *F.M.C. Stores*, 100 N.J. at 424. The Legislature "has attempted to set out a well-organized time-table for the purpose of enabling a municipality to ascertain the amount of taxable ratables within the jurisdiction in order that it might adopt a responsible and fairly accurate budget." *Id.* at 425. "By incorporating a strict deadline in [the statute], the Legislature intended to ensure that municipalities receive timely notice that a particular property's valuation is subject to challenge." *Prime Accounting Dept. v. Township of Carney's Point*, 2013 N.J. Lexis at *31.

After previously remanding the matter to the Tax Court for further proceedings concerning the timeliness and propriety of the putative intervenor's application for permissive intervention, the Appellate Division made it plain, mindful of the above-referenced well-settled jurisprudence, that any effort to intervene must, in the first instance, be timely pursued and that the annual tax appeal filing deadline will effectively wait for no one.

Although as demonstrated above, the inviolable nature of this statutory deadline is plain, the court's decision here may have been made easier by the attendant distasteful nature of a case involving an unrelated party's efforts at meddling with pending litigation between the real parties in interest (the actual owner of the property in question and the municipality).

by Carl Rizzo

January 17, 2019

Cole Schotz

