

THE COURTS

Title 25—LOCAL COURT RULES

WASHINGTON COUNTY

Local Civil Rules 5000—5000.12 Assessment Appeals; No. 2016-1

Order

And Now, this 26th day of May, 2016; *It Is Hereby Ordered* that the previously-stated Washington County Local Civil Rules are adopted as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

KATHERINE B. EMERY,
President Judge

ASSESSMENT APPEALS

Rule L—5000. Definitions.

The following rules shall apply to all appeals from a real estate tax assessment determined by the Washington County Board of Assessment Appeals. These rules shall apply to all appeals taken following their effective date, and may be applied as appropriate to any pending appeals ninety (90) days after the effective date.

Definitions:

Appeal—An appeal from the Washington County Board of Assessment Appeals as defined in the General County Assessment Law, 72 P.S. § 5020-518.1(a).

Board—The Washington County Board of Assessment Appeals.

Commercial Property—Any property whose purpose is to generate income for its owner, or is otherwise designated in the tax assessment records as commercial in use.

Date of Notification—The date of the Board's decision.

Party—Appellant, the Board, and any other person or entity entitled to notice of the appeal.

Property Owner—The record owner of the property as set forth in the tax assessment records.

Taxing Authority—Any county, city, borough, town, township, school district, or other public corporation having power and authority to levy taxes on the assessment of the real estate in question.

Verified—When used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.Con.Stat. § 4904 relating to unsworn falsification to authorities.

Rule L—5000.1. Real Estate Tax Assessment Appeal.

(a) Real Estate Tax Assessment Appeal from a decision of the Board as to the amount of the assessment for real estate tax purposes, or as to exemption of real estate from payment of real estate taxes, shall be captioned "Petition for Real Estate Tax Assessment Appeal" or "Petition for Real Estate Tax Exemption Appeal" and filed with the Prothonotary within the time prescribed by statute. A copy of the appeal shall be provided to the Court Administrator.

(b) The appeal shall contain the following:

(1) Caption designating the named party taking the appeal as Appellant, the Board as Appellee, and if Appellant is a taxing authority it shall join the owner of the real estate involved as a matter of course as a party in the assessment appeal by designating such named owner in the caption as an Appellee. All taxing authorities shall be named as parties in the appeal. The tax parcel identification number for the real estate in question shall appear in the caption.

(2) Identification of the subject real estate, including the street address and tax parcel identification number, and a designation of the municipality and school district wherein the real estate is located. A copy of the property card from the tax records shall be attached as an exhibit to the petition.

(3) Name and address of the taxpayer(s), and any other party to the appeal.

(4) Nature of and reasons for the appeal.

(5) Reference to the decision of Washington County Board of Assessment Appeals (Board) from which the appeal is taken. The date of notification shall be provided. A copy of the Board's notice of decision shall be attached as an exhibit to the petition.

(6) Reason(s) for the appeal. The petition shall identify whether the challenge is based on fair market value, base year value, or a constitutional challenge based on uniformity.

(7) A verification in accordance with Pa.R.Civ.P. 206.3, if the petition contains an allegation of fact which does not appear of record.

(c) Within ten (10) days after filing the appeal, appellant shall serve a copy of the appeal on the Board, on all affected taxing authorities at their business addresses, and any other party, in the manner prescribed by Pa.R.Civ.P. 440. The property owner shall be served notice at the registered address designated on the tax records of Washington County.

(d) Within twenty (20) days of service of the appeal, the appellant shall file a verified proof of service of the petition.

(e) There shall be no requirement that the appellee, or any other party, file an answer or responsive pleading to the petition.

(f) All appeals shall be subject to Pa.R.Civ.P. 1012, 1023.1, and 1025.

(g) Cross-appeals shall not be permitted, and, if a cross-appeal is filed, the Court shall dismiss the cross-appeal, and proceed at the earlier filed appeal.

(h) No appeal may be withdrawn without consent of all other parties, or leave of court.

Note: The Pennsylvania Rules of Civil Procedure do not apply to real estate tax assessment appeals, unless specifically adopted by local rule or order of court. *In re Mackey*, 687 A.2d 1186 (Pa.Comm.w.Ct. 1997).

Rule L—5000.2. Intervention.

(a) Any taxing authority not named as a party may intervene as a matter of course during pendency of the appeal by filing a Notice of Intervention with the Prothonotary.

(b) Notice of Intervention shall contain the name of the intervening party as an additional party designated as “Intervenor” in the caption, and shall set forth that such identified party is intervening. The notice shall provide an address for the intervenor, unless simultaneously filed with an entry of appearance for counsel.

(c) Intervenor shall serve copies of Notice of Intervention on all parties in accordance with Pa.R.Civ.P. § 440.

(d) Within ten (10) days of filing of Notice of Intervention, the intervenor shall file a verified proof of service.

(e) No response is required to be made by any party served with a copy of a Notice of Intervention.

Rule L—5000.3. Discovery.

(a) Except as otherwise proved by this Rule, discovery shall be by leave of court only for cause shown. Nothing in these rules shall prohibit an agreement among the parties regarding discovery not otherwise authorized by these rules.

(b) In all cases involving commercial property, the taxing authorities may serve a copy of Tax Assessment Appeal Discovery Requests, (FORM 5000.3) on the taxpayer. The taxpayer shall furnish the information sought in the Discovery Requests as set forth in Local Rule 5000.5.

(c) Any discovery disputes, including, without limitation, any motions for protective order or motions to compel, shall be presented upon proper notice to the judge assigned to the case.

(d) A party may inspect the property at a reasonable time(s) upon the condition that such party provides written notice of the inspection no less than twenty (20) days prior to the property owner, if unrepresented, or the counsel of record for the property owner. If the property owner objects to the inspection or the time for inspection set forth in the notice, the property owner shall file written objections to such inspection and present such objections to the assigned judge.

Note: In the absence of a statewide rule, local rule, or order of court, it is within the sound discretion of the trial court whether to permit or refuse discovery in tax assessment appeals. *Tanglwood Lakes Community Association v. Pike County Board of Assessment*, 642 A.2d 581 (Pa. Commw. Ct. 1994).

Rule L—5000.4. Consolidation.

(a) The Court on its own motion, or on the motion of a party, may consolidate real estate tax assessment appeals involving properties that are similarly situated. The properties must be located within the same municipality and school district.

(1) A motion to consolidate shall be determined in accordance with Pa.R.Civ.P. 213.

(2) If the Court grants a motion to consolidate real estate tax assessment appeals, it shall enter a case management order setting forth all pretrial deadlines.

Rule L—5000.5. Pretrial Procedure.

(a) In real estate tax assessment appeals involving residential property, the following case management schedule shall govern the appeal, absent a case management order from the Court:

(1) Within ninety (90) days of the filing of the appeal, the parties shall exchange appraisal reports. If a party fails to provide an appraisal within the time period provided by this rule, by leave of court, or within such

time as agreed to by the parties and approved by the Court, then, upon motion, the Court may preclude that party from presenting any evidence of valuation at trial.

(2) The Court Administrator shall schedule a conciliation conference within one hundred and twenty (120) days of the filing of the appeal. At the time of conciliation, all counsel and the parties, or a designated representative, shall be present. The property owner, or their designated representative, shall have full authority to settle. The conciliation conference may be the same day as the hearing before the master.

(b) In real estate tax assessment appeals involving commercial property, the following case management schedule shall govern the appeal, absent a case management order from the Court:

(1) Discovery requests shall be propounded within forty-five (45) days of the filing of the appeal.

(2) Responses to discovery shall be furnished within forty-five (45) days of the date of the requests.

(3) Within one hundred and fifty (150) days of the filing of the appeal, the parties shall exchange appraisal reports. If a party fails to provide an appraisal within the time period provided by this rule, by leave of court, or within such time as agreed to by the parties and approved by the Court, then, upon motion, the Court may preclude that party from presenting any evidence of valuation at trial.

(4) Each party of record shall file a Pretrial Memorandum within one hundred and eighty (180) days of the filing of the appeal. The Pretrial Memorandum shall set forth (1) the contended assessed value of the subject real estate; (2) the names of all witnesses to be called at the hearing; (3) a list of all exhibits intended to be introduced at the hearing; (4) any pre-trial motions, with supporting legal authority; (5) a summary of any legal issues; and (6) a copy of any appraisal to be presented at the hearing.

(5) The Court Administrator shall schedule a conciliation conference within one hundred eighty days (180) days of the filing of the appeal. At the time of conciliation, all counsel and the parties, or a designated representative, shall be present. The property owner, or their designated representative, shall have full authority to settle. The conciliation conference may be the same day as the hearing before the master.

Rule L—5000.6. Appointment of Master.

The court may hear the testimony, or, upon its own motion, may appoint a master with respect to all or any of the matters involved in the real estate tax assessment or tax exemption appeal to issue a report and recommendation. The order of appointment shall specify the matters which are referred to the master.

Note: The Court possesses the inherent authority to appoint a master to assist it in performing its various functions, including the production of advisory opinions regarding tax assessment appeals. *Appeal of 322 Blvd. Associates*, 600 A.2d 630 (Pa. Commw. Ct. 1991).

Rule L—5000.7. Hearing by Master. Report.

(a) The Court Administrator shall schedule any proceedings before the master, and shall cause notice to be provided to all the parties.

(b) A record shall be made of all proceedings before the master. Any requests for transcription shall be in accordance with the Pennsylvania Rules of Judicial Administration governing court reporting and transcripts.

(c) In an action which has been referred to a master, the master's report shall include findings of fact, conclusions of law, and a recommended disposition of the case.

(d) The master's report and recommendation shall be filed, and the Prothonotary shall serve a copy to all counsel of record and any unrepresented party by regular mail.

(e) Any exhibits admitted into evidence before the master are part of the court record, and shall be maintained with the official court record in the appropriate filing office.

Rule L—5000.8. Hearing by Master. Report. Objections. Transcript.

(a) Any party may file objections to the report and recommendation of the master within thirty (30) days of the filing of the report and recommendation. Objections must be accompanied by a certification of counsel, or a party if unrepresented, that a transcript of all proceedings before the master, or necessary portions of the transcript, have been requested from the Court Administrator.

(1) Any request for a transcript shall be governed by the applicable Pennsylvania Rules of Judicial Administration pertaining to court reporting and transcripts.

(2) If no trial transcript is filed within sixty (60) days of the date the Objections were filed, the Court Administrator shall send the objecting party a letter, with copies to all counsel and parties not represented by counsel, stating that the transcript must be paid for and filed within thirty (30) days of the date of the letter, and that if no transcript is filed within the time period, then a court order shall be issued overruling the objections with prejudice. (FORM 5000.8(2)).

(b) Within twenty (20) days of the date on which the transcript is filed of record, the objecting party shall file a Brief in Support of Objections. The Brief in Support of Objections shall refer to transcript page numbers where possible.

(c) If no brief is filed within twenty (20) days of the date the transcript is filed, the Court Administrator shall send the objecting party a letter, with copies to all counsel or a party if not represented by counsel, stating that if a brief is not filed within twenty (20) days of the date of the letter, then a court order will be entered overruling the objections with prejudice. (FORM 5000.8(c)).

Note: If a Brief in Support of Objections has been filed by a taxing authority, other taxing authorities may file a statement joining in that brief, and forego filing their own brief.

(d) Within twenty (20) days after the moving party has filed its Brief in Support of Objections, all responding parties shall file their Briefs in Opposition to Objections.

(e) If no Brief in Opposition is filed and served within twenty (20) days, the Court Administrator shall send the opposing party a letter, with copies to all counsel and parties not represented by counsel, stating that if an opposing brief is not filed within twenty (20) days of the date of the letter, the decision will be made without reference to any brief that you may file thereafter. (FORM 5000.8(e)).

(f) A copy of any brief filed shall be served on all counsel of record, a party if unrepresented, the Court Administrator, and the Court.

Note: If a Brief in Opposition has been filed by a taxing authority, other taxing authorities may file a statement joining in that brief, and forego filing their own brief.

Rule L—5000.9. Decision. Final Order. No Post-Trial Motions.

(a) Within five (5) days after the filing date set for the Briefs in Opposition to Objections has passed, the objecting party shall notify the Court that the matter is ripe for decision by filing a notice that the matter is ripe for decision as substantially set forth in FORM 5000.9(a). A copy of the notice shall be served on all counsel of record, a party if unrepresented, and the Court Administrator.

(b) Upon the filing of the notice defined in subsection (a), the Court may schedule oral argument on the objections, or enter a final order based on the briefs and record alone.

(c) In the event that none of the parties file objections as described above, the report and recommendation of the master shall become the final order of court.

(d) There shall be no motions for post-trial relief to a final order of court.

Rule L—5000.10. Real Estate Tax Exemption Appeals.

(a) Real estate tax exemption appeals shall be governed by the same rules as real estate tax assessment appeals; provided, however, that Local Rules 5000.3 and 5000.5 shall not be applicable.

(b) Real estate tax exemption appeals from decisions of the Board shall be subject to the provisions pertaining to discovery in the Pennsylvania Rules of Civil Procedure.

Rule L—5000.11. Notice of Change of Ownership of Property. Change of Address. Withdrawal or Substitution of Counsel.

(a) If at any time during the course of an appeal filed pursuant to Local Rule 5000, et seq., ownership of the property at issue is transferred, changed, or altered in any way, the property owner listed of record in the appeal is required to file notice of the transfer/change/alteration with the Prothonotary. The notice shall provide the following information:

(1) The name(s) and addresses(es) of the new owner(s) of the property;

(2) The type of transfer/change/alteration (e.g., property sold); and

(3) The date of the transfer/change/alteration.

Note: See Pa.R.Civ.P. 1012 for notice requirements when there is a withdrawal or substitution of counsel. See Pa.R.Civ.P. 440 for the requirements of service of legal papers.

Rule L—5000.12. Forms.

All forms referenced in these rules shall be produced in a substantially similar format as set forth below.

Form 5000.1. Petition for Assessment Appeal.

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

(Name), CIVIL DIVISION
 Appellant, No. _____
 v.
 (Name or Names), COMMERCIAL/RESIDENTIAL
 (choose one)
 Appellee(s).
 REAL ESTATE INVOLVED
 Petition for Appeal from
 Decision of the Board of
 Assessment Appeals

PETITION FOR APPEAL FROM DECISION OF THE BOARD OF ASSESSMENT APPEALS

This Petition for Appeal from Decision of the Board of Assessment Appeals is filed pursuant to Local Rule 5000.1 by (name):

1. The owner of this commercial/residential (choose one) real estate and/or taxable property is (name), and the address of this real estate is (address) (the "Property"). The Property has been assigned Parcel Identification Number (fill in).
2. The County of Washington, the municipality (fill in) and the school district (fill in) are the taxing bodies interested in the taxable status of the Property.
3. The Washington County Tax Assessment Office made an assessment of the Property. (Name) appealed from this assessment to the Board of Property Assessment Appeals (the "Board") asking that the assessment be reduced/raised (choose one). The Board is authorized to hear all appeals from assessments made by the Washington County Tax Assessment Office.
4. Following a hearing, a Decision of Appeal from Real Estate Assessment was mailed by the Board.
5. Petitioner is filing the appeal to the Common Pleas Court of Washington County.
6. (Fill in reasons for appeal).

WHEREFORE, Petitioner requests this Honorable Court to set the assessment to such amount as may be right and/or proper.

Date: _____

 (Signature)

Note: Pennsylvania law permits the Court to increase or decrease the assessment, or to leave the decision of the Board intact, no matter who appealed.

Form 5000.3. Tax Assessment Appeal Discovery Requests.

[CASE CAPTION, INCLUDING DOCKET NUMBER]

AND NOW, comes (name) and serves the within Tax Assessment Appeal Discovery Requests upon (name). Pursuant to Local Rule 5000.5, all applicable responses to these Requests must be furnished within forty-five (45) days after the receipt of these Requests.

REQUESTS FOR DOCUMENTS

Please produce a copy of the following:

1. Any and all surveys (land, structural, environmental, etc.), building plans and site plans showing design construction and location of the subject property.
2. Any and all mortgages, promissory notes, deeds, and agreements of sale made or assumed on the subject property within the last three years and the corresponding closing statements.
3. Any and all appraisals or evaluations on the subject property which have been made during the last three years.
4. Any and all loan applications of any kind involving or relating to the subject property which have been signed or submitted within the past three years.
5. Any and all taxes, land leases, agreements, licenses, occupancy schedules, rent schedules (or rolls) relating to the subject property for the last three years.
6. Any and all written listing agreements, offers to purchase or offers to sell the subject property made within the last three years.
7. Any and all soil tests or mineral evaluations, permits or permit requests, requests relative to a zoning variance, or similar applications or requests to any governmental body within the past three years concerning the subject property and the result of any such applications or requests.
8. Any and all federal and state income tax returns and audited financial statements with respect to the subject property within the last three years.
9. Any and all corporate or partnership prospectus or private placement memorandum that contains any reference to the value of the subject property within the last three years.
10. Any and all insurance policies and/or binders covering the subject property, its building contents, any building or any business located thereon from the last three years.
11. Any and all documents which describe in whole or in part any physical improvements to the subject property (whether by the owner or by a tenant) within the last three years.
12. Any and all documents listing or describing capital improvement(s) made to the subject property over the past three years including the costs of the capital improvement(s) and the completion date(s).
13. Any and all documents relating to leasing commissions paid with respect to the subject property over the last three years including the corresponding tenant space, the commission paid, and the date.

INTERROGATORIES

Please provide the following information:

1. The name, address and telephone number of the person to contact regarding conducting an inspection of the subject property.

Date: _____

 (Signature)

(c) **Form 5000.8(a). Notice.**

NOTICE

Pursuant to the provisions of 72 P.S. § 502-518.1(c) and Local Rule 5000.7, attached is the Report of the Special Master.

Any party objecting to the Report shall file Objections with the Washington County Prothonotary within thirty (30) days of the receipt of this Notice. A copy of the Objections must be accompanied by a certification of counsel or of the objecting party, if unrepresented, that the trial transcript, or necessary portions of the transcript, have been ordered from the Court Administrator's Office. Copies of the Objections and certification shall be served on the Court Administrator and on all counsel of record, or the parties, if unrepresented.

In the event that none of the parties files Objections, the Report and Recommendation of the Special Master will be adopted as the final Order of Court.

COURT ADMINISTRATOR

Dated: _____

(d) **Form 5000.8(2). Letter.**

Re: [case name and docket number]

Dear [Objecting Party]:

It has been sixty (60) days since you filed your Objections to the Masters Report in the subject case and no trial transcript has been filed with the Court Administrator, Civil Division. You must contact this office and order the transcript of the proceedings and the transcript must be paid for and filed within thirty (30) days of the date of this letter. See Local Rule 5000.8.

If the transcript has not been paid for and filed within thirty (30) days of the date of this letter. A COURT ORDER PURSUANT TO LOCAL RULE 5000.8 WILL BE ISSUED OVERRULING THE OBJECTIONS WITH PREJUDICE.

Very truly yours,
Court Administrator

(e) **Form 5000.8(2). Court Order.**

[CAPTION INCLUDING DOCKET NUMBER]

ORDER OF COURT

On this _____ day of _____, 20____, it appearing that ninety (90) days after the Objections in this case were filed, a letter dated _____ was mailed by the Court Administrator's office to the objecting party; this letter stated that within thirty (30) days from the date of the letter, the trial transcript must be paid for and filed; thirty (30) days have passed since the date of the letter, and the transcript has not been filed.

IT IS ORDERED THAT, pursuant to Local Rule 5000.8, the objections in this case are overruled with prejudice.

BY THE COURT:
_____, J.

(f) **Form 5000.8(c). Letter.**

Re: [case name and docket number]

Dear [Objecting Party]:

It has been twenty (20) days since the transcript in the referenced case was filed with the Court Administrator, Civil Division. Pursuant to Local Rule 5000.8, your brief is now overdue. If it is not filed and served within twenty (20) days of the date of this letter, A COURT ORDER PURSUANT TO LOCAL RULE 5000.8 WILL BE ISSUED OVERRULING YOUR OBJECTIONS WITH PREJUDICE.

Very truly yours,
Court Administrator

(g) **Form 5000.8(c). Court Order.**

[CAPTION INCLUDING DOCKET NUMBER]

ORDER OF COURT

On this _____ day of _____, 20____, it appearing that twenty (20) days after the transcript in this case was filed, a letter dated _____ was mailed by the Court Administrator to the objecting party, this letter stated that if a brief is not filed by the objecting party and served within twenty (20) days of the date of the letter, a court order will be issued overruling the objections with prejudice; twenty (20) days have passed since the date of the letter; and the objecting party has not filed a brief.

IT IS ORDERED THAT, pursuant to Local Rule 5000.8 the objections in this case are overruled with prejudice.

BY THE COURT
_____, J.

(h) **Form 5000.8(e). Letter.**

Re: [case name and docket number]

Dear [Opposing Party]:

It has been twenty (20) days since the Objecting Party filed a Brief in Support of Objections and no brief in opposition has been filed by you. If no Brief in Opposition is filed and served within (20) days of the date of this letter, the decision will be made without reference to any brief that you may file thereafter.

(i) **Form 5000.9(a). Notice That Matter is Ripe for Decision.**

[CASE CAPTION, INCLUDING DOCKET NUMBER]

NOTICE THAT MATTER IS RIPE FOR DECISION

AND NOW, comes (name) and notifies this Honorable Court, pursuant to Local Rule 5000.9, that this matter is ripe for decision and requests that this Honorable Court schedule oral argument or decide the objections on the briefs at its convenience.

A Brief in Opposition to the Objections _____ has _____ has not been filed (please check appropriate line) been filed.

Date: _____
(Signature)

[Pa.B. Doc. No. 16-1013. Filed for public inspection June 17, 2016, 9:00 a.m.]