

J. LAWRENCE SCHATZ

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IN THE

vs.

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MARYLAND TAX COURT

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STATE DEPARTMENT OF
ASSESSMENTS & TAXATION

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No. 15-MI-AA-0100

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MEMORANDUM AND ORDER

J. Lawrence Schatz, Petitioner, challenges the State Department of Assessments and Taxation's, Respondent, calculation of the Homestead Property Tax Credit (Credit) and the taxable assessment of the Petitioner's residence after a rebuild of the improvements which had been removed from the assessment roll because of fire damage.

In 1984, Petitioner purchased the subject property located at 610 Holly Ridge Road in Severna Park, Maryland and maintained the home as his principle residence. In November 2010, the house was destroyed by fire. At the time, Petitioner had a Homestead Tax Credit, which limited the increase in County and State taxable assessments annually by 2% and 10%, respectively.

The assessment of the property for 2007, 2008, and 2009 ranged from \$507,166 to \$768,540. Because of the increase in the fair market value during these years, the Credit also increased because the increase in taxable assessments was limited to 2%.

2007 County Taxable Assessment	\$233,547
County Credit	\$273,619
2008 County Taxable Assessment	\$238,218
County Credit	\$399,634

2009 County Taxable Assessment	\$242,982
County Credit	\$525,558

The "before fire" assessments for 2010, 2011, and 2012 reflected a significant reduction in value but the amount of the credit was reduced because the difference between the allowed assessment increase and the new fair market value decreased.

2010 Value \$562,900	Taxable Assessment \$247,842	Credit \$315,058
2011 Value \$562,900	Taxable Assessment \$252,799	Credit \$310,101
2012 Value \$562,900	Taxable Assessment \$257,855	Credit \$305,045

As a result of the fire in November 2010, Respondent removed the value of the improvements in a notice dated January 25, 2011. That notice established a new value of \$224,200 which included a \$100 value assigned to improvements as a place keeper in the system. Respondent's notice dated December 28, 2011 added back the newly reconstructed house reflecting a value of \$552,200. Upon appeal, that amount was reduced to \$446,300. In order to insure that Petitioner not lose the benefit of the pre-fire Credit, the Respondent added \$86,004 of Credit to the Credit amount of \$244,098 received in the July 1, 2011 tax bill which equaled the pre-fire 2011 Credit of \$310,100. The \$86,004 Credit reduced the assessment for the half-year pickup to \$360,296.

Thus, the taxable assessment for the July 1, 2012 was based on the land value of \$224,100 plus the improvement value of \$446,400 or a total of \$670,500. The county assessment was restricted to 2% higher than the 2011 assessment (land plus new improvements, or \$360,296) which equaled \$367,606. Therefore, the Credit in 2013 was \$302,894. Since the value reduction was smaller than the 2012 Credit amount of \$302,894, there was no actual impact on the tax bill. Accordingly, the taxable assessment was limited

to 2% increases as follows:

2013 County Taxable Assessment	\$374,958
County Credit	\$279,142
2014 County Taxable Assessment	\$328,457
County Credit	\$271,643
2015 County Taxable Assessment	\$390,106
County Credit	\$263,994

Respondent's calculation of the Credit when there has been a pickup of new improvements has been adopted and approved by the Court of Appeals in the recent case *State Department of Assessments and Taxation v. Kevin Andrecs*, 444 Md. 585 (2015) In that case, the pickup of new property was after the razing of an existing home and the construction of a new house. The Court concluded that the clear language of the statute, Tax Property Article § 9-105(c)(5) and the constitutional principle of uniformity of assessments requires the new real property pickup to be included in the new value assessment. Accordingly, the credit which existed at the time of the damage is then subtracted from this new value to determine the taxable assessment to which the cap percentage is applied to determine the new taxable assessment.

The same principles apply where damaged property is removed from the assessment rolls under Tax Property Article §10-304 and later replaced with a new house. The calculation by the Respondent properly included an increase in the assessment as a result of the revaluation. Otherwise, Petitioner would receive a tax windfall because he rebuilt a more expensive house contrary to the constitutional principle of uniformity of assessments.

Therefore it is hereby ORDERED on this ^{8th} day of
March 2016, by the Maryland Tax Court, that the calculation of the State
and County credit, as well as, the State and County taxable assessment are hereby
AFFIRMED.

CERTIFIED TRUE COPY
TEST: John T. Hearn, Clerk

NOTICE: You have the right of appeal from the
above Order to the Circuit Court of any County
or Baltimore City, wherein the property or subject
of the assessment may be situated. The Petition
for Judicial Review **MUST** be filed in the proper
Court within thirty (30) days from the date of the
above Order of the Maryland Tax Court. Please
refer to Rule 7-200 et seq. of the Maryland Rules
of Court, which can be found in most public
libraries.

cc: Thomas C. Marriner, Esq.
Jeffrey G. Comen, Esq.
Kent Finkelsen, Administrator