

Superior Court Applies Consentable Lines Doctrine to Backyard Property Dispute

Developing properties in Philadelphia has many challenges since this is a “row-home” city, which means the building structures are connected to one another and, thus, there is no room for error if a building structure is not properly situated on a property.

In *Rosborough v. Carmel Developments*, 2022 Pa. Super. Unpub. Lexis 2374 (Oct. 7, 2022), the Pennsylvania Superior Court recently applied the doctrine of consentable lines to a property dispute between a real estate developer and adjoining property owners regarding a portion of the real estate developer’s property that these neighboring property owners had been utilizing as a portion of their backyard.

Between 2018 and 2019, the real estate developer, Carmel Developments, Inc., demolished the existing building structure on the property it owned and erected a larger building structure based upon the metes and bounds described in its deed to the property.

However, during the construction of this larger building structure, Danielle Rosborough and Ryan Bateman, the property owners directly adjacent to Carmel Developments’ property, claimed that the new building structure encroached upon part of their property’s backyard, which they owned by virtue of the recognition and acquiescence of their use of that portion of Carmel Developments’ property over time.

According to the adjoining property owner, from at least 1996 until late 2018, the respected boundary line was a poured piece of concrete on the land that was encompassed by fencing or walls that completely enclosed their rear yard which,

unbeknownst to them at the time, included a portion of the property now owned by Carmel Developments.

When the parties could not amicably resolve this property dispute, the adjoining property owners filed a complaint in ejectment against Carmel Developments in the Philadelphia Common Pleas Court where they asserted ownership of the disputed portion of the property owned by Carmel Developments by way of the doctrine of consentable lines.

In the complaint, the adjoining property owners alleged that Carmel Developments trespassed upon their property by digging out land, laying a foundation for a wall and damaging and partly destroying a fence and a wall on their property without permission and in violation of their fee simple ownership, the opinion said.

The adjoining property owners also stated in the complaint that the parties and their predecessors recognized and acquiesced to this wall as the boundary line between the properties.

In response, Carmel Developments filed an answer to the complaint by denying the existence of the encroachment and asserting that the referenced wall had never served as the boundary line. Rather, Carmel Developments argued that it should be allowed to abide by the boundary line set forth in the parties' respective deeds.

Following a nonjury trial, the trial court entered a ruling finding in favor of the adjoining property owners based upon the doctrine of consentable lines.

In doing so, the trial court found that a consentable boundary line was established by recognition and acquiescence, but only awarded nominal damages to the adjoining property owners.

Both parties ultimately appealed the trial court's ruling to the Superior Court.

The Superior Court in *Rosborough* first tackled whether the trial court properly found such a consentable boundary line through recognition and acquiescence.

In citing to *Plott v. Cole*, 547 A.2d 1216 (Pa. Super. Ct. 1988), the Superior Court in *Rosborough* noted that “the doctrine of consentable line exists, which is a separate and distinct theory from adverse possession, is a rule of repose for the purpose of quieting title and discouraging confusing and vexatious litigation.”

Under the doctrine of consentable lines, a party must establish that each party has claimed the land on their side of the line as their own and that the occupation has occurred for the statutory period of 21 years.

Quoting the Supreme Court in *Zeglin v. Gahagen*, 812 A.2d 558 (Pa. 2002), the Superior Court in *Rosborough* emphasized that “decisions involving acquiescence are frequently distinguished from adverse possession cases only in that possession in the former are often based on a mistake as to the location of property lines.

The Superior Court in *Rosborough* pointed out that, “because the finding of a consentable line depends upon possession rather than ownership, proof of passage of sufficient time may be shown by tacking the current claimant’s tenancy to that of his predecessor.”

Relying upon the Superior Court’s ruling in *Soderberg v. Weisel*, 687 A.2d 839 (Pa. Super. Ct. 1997), the Superior Court in *Rosborough* reasoned that, “when a consentable line is established, the land behind such a line becomes the property of each neighbor regardless of what the deed specifies” and “in essence, each neighbor gains marketable title to that land behind the line, some of which may not have been theirs under their deeds.”

In reviewing the merits of the appeal, the Superior Court in

Rosborough relied upon the parties' deeds as well as communications between Carmel Developments' representatives and one of the adjoining property owners to demonstrate the adjoining property owners' continued possession of the disputed land in their backyard.

The adjoining property owners then challenged the trial court's failure to relocate the boundary line through equitable relief.

On appeal, the adjoining property owners asserted that they presented prima facie evidence of the extent to which the new building structure encroaches on the disputed portion of their backyard.

Disagreeing with the adjoining property owners' assertion, the Superior Court in *Rosborough* concluded that the record lacked any "definitive testimony regarding the dimensions of the disputed property ... or any basis upon which to fashion an equitable award."

In particular, the Superior Court in *Rosborough* emphasized that the adjoining property owners' expert witness at trial admitted that he could not make a precise measurement between the old wall and the new wall constructed between the properties, nor did the adjoining property owners point to a specific diminution in value following the encroachment of the new construction.

Further, the adjoining property owners admitted that they were able to continue the use of their backyard, that their grill remained in the same location, and that they could still exit the storm cellar door located in the backyard.

Lessons Learned

This eye-opening decision should urge property owners throughout Pennsylvania to proceed with caution when redeveloping in tightly packed row-home neighborhoods. In

essence, both real estate developers and their adjoining property owners should diligently review deeds, surveys and legal descriptions rather than rely upon existing features of the given properties when real estate development is contemplated and then occurs.

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Vertical Position 100%

Programs, Resources Available

for Prospective Homebuyers in Pennsylvania

As the real estate market continues to rapidly change, many prospective homebuyers are wondering if it is a good time to acquire real estate with rising interest rates and inflation.

However, for prospective homebuyers in Pennsylvania there are many governmental programs and resources that can assist them with the real estate acquisition. These programs and resources described in this article require a combination of an approved homeownership course, financial counseling, meeting income guidelines, and a program application before closing can occur or even prior to the signing of the agreement of sale.

The following governmental programs exist in Pennsylvania:

PHFA Grant

Down payments and closing costs can be the biggest hurdle many homebuyers face when they purchase a personal residence for themselves.

To assist homebuyers with this issue, the Pennsylvania Housing Finance Agency (PHFA) offers grants of \$500 to help with a down payment and closing costs when obtaining a loan through PHFA's preferred home purchase loan program.

This grant does not require repayment and is currently offered year-round.

Keystone Advantage Assistance Loan Program

The Keystone Advantage Assistance Loan Program provides a second mortgage loan to help with the costs associated with the purchase of a personal residence.

Qualified homebuyers can receive a loan up to the lesser of 4% of the purchase price or personal residence's market value or \$6,000 that can then be applied toward a down payment or closing costs.

This mortgage loan must be repaid monthly and will be amortized over a 10-year term at a rate of interest of 0%.

Under this governmental program, the prospective homebuyer must meet the following requirements:

- A minimum credit score of 660.
- Assistance under this program can only be used for the minimum required down payment or closing costs.
- The minimum loan amount is \$500.
- The liquid assets of the prospective homebuyer may not be greater than \$50,000 after deducting the funds needed to close on the mortgage loan.
- The mortgage loan may not be combined with any other PHFA-assistance programs, with the exception of the Access Modification Loan Program.
- The mortgage loan may be used on conventional, FHA, VA or RD loans, with all applicable underwriting requirements applying, including, but not limited to, loan-to-value and down payment requirements.

Keystone Forgivable in 10 Years Loan Program

The Keystone Forgivable in 10 Years Loan Program (K-FIT) is available for qualified homebuyers to provide assistance toward down payment and closing costs.

This governmental program provides a second mortgage loan up to 5% of the lesser of the purchase price or the property's appraised value with no maximum dollar limit toward assistance of the down payment and closing costs.

A loan administered under K-FIT is forgiven over 10 years at a rate of 10% per year.

The eligibility requirements under K-FIT are the same as the Keystone Advantage Assistance Loan Program. In addition, a homebuyer obtaining loan proceeds from K-FIT must complete homebuyer education counseling regardless of their credit score.

Mortgage Tax Credit Certificate

A PHFA Mortgage Credit Certificate (MCC) allows homebuyers to claim a tax credit of 20% to 50% of their mortgage interest paid per year capped at \$2,000 annually. This limited tax credit is an offset against ordinary income, permitting qualified homebuyers to reduce, on a dollar-for-dollar basis, their federal income tax liability.

The MCC is a potential annual credit for the life of the original mortgage so long as the property remains owned and occupied by individuals who utilize the property as their principal residence. The credit cannot exceed the amount of federal tax owed after all other credits and deductions have been taken into account.

In order to be eligible under this program, the homebuyer and all other adults who intend to live in the property within 12 months from closing must be first-time homebuyers.

Furthermore, the gross annual household income for all adults who intend to occupy the property within 12 months from closing must adhere to the income limits set forth under the Keystone Home Loan Program. To illustrate, as of Aug. 1, in Philadelphia, the income limit for a one- or two-member household is \$126,000 while the income limit for a three- or more-member household is \$147,500.

Additionally, the purchase price of the property cannot exceed the purchase price limit set forth under the Keystone Home

Loan Program. To illustrate, as of Aug. 1, the purchase price limit in Philadelphia is \$484,600 for a single-family dwelling.

To claim the credit, the homeowner must complete and submit IRS Form 8396 along with their federal tax returns.

Employer Assisted Housing Initiative

PHFA offers the Employer Assisted Housing Initiative (EAH) to help address the lack of affordable housing for low- to moderate-income households.

Participating employers, who offer a monetary home purchase benefit to their employees, partner with PHFA to make home-buying more realistic for their employees. Although the participating employer's benefits do not have to be contingent on a mortgage loan through PHFA, if the employee is approved for such a mortgage loan, the employee receives substantial financial advantages at no cost to the participating employer.

Homebuyers working at a participating employer can receive a Keystone Advantage Assistance Loan of up to \$8,000 to assist in down payment and closing costs in the form of an interest-free loan amortized over 10 years.

These are the following governmental programs available in Philadelphia:

Philly First Home Program

This governmental program offers an assistance grant of up to \$10,000 or 6% of the purchase price, whichever is less, to help first-time homebuyers reduce the principal, cover down payment and closing costs.

To be eligible for this governmental program, the prospective homebuyer must be a first-time homebuyer (which is defined as also not owning a personal residence in the past three years)

and complete a homeownership counseling program before signing the written agreement of sale for the property.

The property must not only be located in Philadelphia but is limited to a single-family dwelling or a duplex (but may not consist of a condominium).

There are income limits for this governmental program depending upon the family size. To illustrate, the maximum annual household income ranges from \$73,800 for a family size of one to \$139,500 for a family size of eight (with \$8,450 added per person for a family size that exceeds eight individuals).

According to the city's website, if the homebuyer "moves or refinances before living in the home for 15 years, the grant must be repaid."

Philadelphia Home.Buy.Now Program

According to the website of the city of Philadelphia's Division of Housing and Community Development (DHCD), "Philadelphia Home.Buy.Now provides participating employers a menu of housing-related benefits to offer their employees—the key feature of Philadelphia Home.Buy.Now is the financial assistance an employer provides to their employee, making them eligible for a dollar-for-dollar matching grant up to \$4,000 to help cover down payment and closing costs."

For example, if the employer gives the employee \$4,000 to purchase a property, this governmental program will provide the employee with a matching grant of \$4,000.

Our law firm, Nochumson P.C., is a participating employer of this governmental program. In doing so, our law firm provides a forgivable loan of \$4,000 to eligible employees that loan will be forgiven by \$1,000 for each year the eligible employee is employed at our law firm.

Under this governmental program, employees must receive a minimum of \$500 from their employer and the property must be located in Philadelphia.

Philadelphia Home.Buy.Now is funded by PHFA and DHCD. The Community & Economic Development (CED) Department of the Urban Affairs Coalition (UAC) administers this governmental program.

Employees seeking a matching grant must be below 115% area medium income as set by DHCD. According to DHCD's website, this income ranges from \$84,850 for a household size of one to \$160,000 for a household size of eight.

In addition to the aforementioned governmental programs, many financial institutions in the Philadelphia region also offer incentives to first-time homebuyers:

First Front Door Program

Although funds for the First Front Door Program has been depleted for 2022, this program will be back in 2023.

This program offers first-time homebuyers grants for up to \$5,000 in cash for a down payment or closing costs.

To qualify, the prospective homebuyer must:

- Be a first-time homebuyer obtaining a conventional mortgage (which means the prospective homebuyer has not owned a personal residence within the past three years);
- Contribute personal funds as part of the down payment and closing costs;
- Have household income at or below 80% of the area median income at the time of registration;
- Complete at least four hours of homeownership counseling, including the topic of predatory lending, prior to the purchase of the property;
- If a student, work at least 30 hours a week; and close the mortgage loan with a financial institution that has

received approval from Federal Home Loan Bank for this grant.

NeighborhoodLIFT

The Neighborhood Lift program offers homebuyer education plus \$15,000 for eligible homebuyers to use toward their down payment or closing cost on qualified homes.

In order to submit a request for the NeighborhoodLIFT program, the prospective homebuyer must:

- Complete eight hours of homebuyer education with an agency that is eligible for the program;
- Meet the income requirements for the program.

According to this program, the homebuyer's annual income must be at or below \$54,000.

The properties eligible under this program include properties not exceeding four dwelling units and may be a part of a condominium, co-op, planned community, land trust or qualified manufactured home.

Victor Adeniran, a second-year law student at Villanova University's Charles Widger School of Law, who is interning at the firm, assisted in the preparation of this article.

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Vertical Position 35%

Landlords in Philadelphia Must Now Provide Prospective Tenants with Notice Regarding Allowable Uses Of The Property

Under a new law, commercial landlords in Philadelphia are now required to provide disclosures to prospective tenants about the allowable uses of the leased premises before a lease arrangement may be consummated between the parties.

Specifically, the new law prohibits landlords in Philadelphia from binding a prospective tenant into a lease arrangement until that prospective tenant has been afforded the opportunity to determine the allowable use of the commercial property under the Philadelphia Zoning Code after receiving the following disclosures:

- A [commercial leasing notice](#) explaining how to determine the allowable uses of the commercial property available for lease.
- An acknowledgement form, signed by the landlord and the

prospective tenant indicating that the prospective tenant was provided the commercial leasing notice and that the prospective tenant was informed of the prospective tenant's right to an opportunity over the course of seven (7) days to determine the allowable uses of the commercial property for lease under the Philadelphia Zoning Code. Both parties are entitled to receive signed copies of the acknowledgement form.

The required disclosures listed above must be followed unless (a) the tenant is represented by an attorney or a real estate agent duly licensed in the Commonwealth of Pennsylvania at the time the terms and conditions of the lease arrangement are presented to the prospective tenant, or (b) the landlord and the prospective tenant mutually agree upon a different review period by a separate writing signed and provided to both parties.

The new law affords the prospective tenant with a private right of action against the landlord if the landlord fails to comply with it. In the private right of action, a prospective tenant may recover, for each violation, actual damages (including punitive damages) not to exceed \$2,000 per violation, reasonable attorneys' fees and court costs, and such other relief, including injunctive relief, as the court may deem appropriate under the circumstances.

Please feel free to contact [Alan Nochumson](#) at either (215) 600-2851 or alan.nochumson@nochumson.com if you wish to learn if a property in Philadelphia is subject to a pending ordinance.

Vertical Position 100%

Appealing Zoning Decisions in Philadelphia

For those in real estate development in Philadelphia, turning your dream into reality includes a great idea, solid planning, the appropriate financing, and, sometimes the most arduous step, approval from the city. Even the best-laid plans can lead nowhere if you do not secure the approval of various city agencies – and obtaining these permits may take many steps. In this blog, we discuss how you can obtain [special governmental relief](#) for real estate development projects in Philadelphia.

What You Need to Know to Begin the Appeal Process

Appealing zoning decisions happens with two governmental agencies: the City of Philadelphia's Department of Licenses and Inspections (L&I) and the City of Philadelphia's Zoning Board of Adjustment (ZBA). L&I ensures that buildings are up to code, while the ZBA deals specifically with appeals from administrative rulings made by L&I within the city of Philadelphia's Department of Planning and Development. Through the zoning appeal process, you can challenge decisions from L&I.

The zoning appeal process starts by filing a zoning permit application with L&I. If L&I refuses or refers your zoning permit application, you then have 30 days to appeal that refusal or referral to the ZBA, so you can obtain a variance or special exception. The ZBA evaluates zoning appeals based on the Philadelphia Zoning Code (Title 14 of the Philadelphia Code).

Furthermore, if you are generally aggrieved by an administrative ruling rendered by L&I, you may file an appeal

against the actions or interpretations of L&I to seek to have the decision of L&I reviewed by the ZBA.

Who Can Appeal?

In order to be qualified to appeal an administrative ruling issued by L&I based upon the Philadelphia Zoning Code, you must fall into one of these categories:

- A zoning permit application has already been refused
- A zoning permit application is under consideration for a special exemption
- You have a zoning permit or decision from L&I that you want to appeal

What You Will Need

It is imperative that you understand the materials you will need in order to appeal the administrative ruling to the ZBA, or you will risk the danger of having your hearing postponed. Be sure to prepare your application for appeal or special exemption, the Project Information Form, a signed version of the applicable Notice of Refusal or Referral, and the filing fee.

An optional, but helpful, additional piece is an attorney. Depending on what your zoning appeal is, it might benefit you to have an attorney present to navigate the intricacies of your zoning appeal and the zoning appeal process in general. Here are some examples:

- An attorney authorized in Pennsylvania can appear before the ZBA to represent a client, or the person can represent themselves
- An attorney authorized in Pennsylvania must represent corporations (including nonprofit corporations and limited liability companies) and they cannot represent

themselves

- An attorney authorized in Pennsylvania can represent a set of partners, otherwise one of the partners must provide a written authorization form on behalf of other partners

What Will It Cost?

To secure a zoning appeal, you must pay a filing fee to the ZBA. If the L&I issues a Notice of Refusal or Notice of Referral, the filing fee will be indicated there. There are different fees for each property type:

- Existing one-or-two-family dwellings – \$125
- New one-or-two-family dwellings – \$300
- All other properties – \$300
- Administrative review – \$200
- Reposting of notices – \$65
- Accelerated hearing – \$750 per property (maximum of \$2,250)

Handling zoning appeals can be difficult if you have never handled one before. Our team has helped countless individuals and businesses successfully navigate the zoning appeal process, and can help you make your vision a reality. We are available 24/7 to help answer your legal questions and to fight for you with skill and fortitude, whatever the case may be. [Contact us](#) today to see how we can represent you.

Post Excerpt What are the steps to appeal a zoning board decision in Philadelphia? Our team can guide you through the process.

Vertical Position 100%

Court Examines Condo Conversion in Relation to Real Estate Ordinances

In *Charlestown Township v. CMI Hartman*, 2022 Pa. Commw. Unpub. LEXIS 115 (Apr. 1, 2022), the Pennsylvania Commonwealth Court analyzed a municipalities' treatment of a condominium conversion with respect to state and local real estate ordinances.

CMI Hartman involves four building structures, each comprising of single-family homes, constructed prior to 1950, on a 2.55-acre property located in Charlestown Township, Chester County and known as Hartman Run, the opinion said.

According to the opinion, these building structures were used as residential rental units for some time although they were located on a single lot and under single ownership.

In 2009, then-owner Hartman Run, submitted to the township a plan to convert the property to condominium ownership, an idea that was not well received by the township's planning commission.

CMI thereafter sold them to third parties.

In late 2018, the township sent a violation letter to the unit owners, announcing that, because no subdivision and land development plan had been approved, the property was in violation of Pennsylvania's Municipalities Planning Code (MPC), the township's subdivision and land development ordinance (SALD0), and Pennsylvania's Uniform Condominium Act (UCA).

The violation letter provided the unit owners with a 30-day window remedy for the violations by submitting certain

governmental applications.

None of the unit owners complied with the first letter and a second letter was issued to them several months later, the opinion said.

Later that year, the township filed a complaint against CMI and the unit owners in the Chester County Common Pleas Court, alleging that the property had been illegally converted to condominium ownership without the approval of township.

The complaint sought to nullify the unit owners' deeds, directing the Chester County recorder of deeds to strike the condominium declaration and the deeds for the condominium units from Chester County's property records.

The parties to the litigation ultimately filed summary judgment motions.

In response to the filed summary judgment motions, the trial court granted summary judgment in favor of CMI and the unit owners and against the township.

In doing so, the trial court determined that "the property was a lawful, nonconforming use and that the conversion of the property to condominium ownership without a redivision of boundary lines or changes to any existing structures did not constitute a subdivision subject to the requirements of the MPC or the township's SALDO and was not otherwise affected by the UCA."

The township then filed for appeal with the Commonwealth Court, claiming that the trial court erred by concluding that the conversion of the property to condominium ownership was not a subdivision of land requiring township's approval, and that the condominium conversion violated the MPC, the township's SALDO, and the UCA.

The Commonwealth Court in *CMI Hartman* ultimately affirmed the

trial court's ruling.

Citing to *Ludwig v. Zoning Hearing Board of Early Township*, 658 A.2d 836 (Pa. Cmwlth. 1995), the Commonwealth Court in *CMI Hartman* pointed out that, "if a use is permitted, a municipality may not regulate the manner of ownership of the legal estate" and that "a condominium, as a method of ownership, is not a property use subject to zoning regulation."

Further, the Commonwealth Court in *CMI Hartman*, relying upon *Pennsylvania Northwestern Distributions v. Zoning Hearing Board Township of Moon*, 584 A.2d 1372 (Pa. 1991), noted that a "lawful nonconforming use establishes in the property owner a vested property right which cannot be abrogated or destroyed, unless it is a nuisance, it is abandoned, or it is extinguished by eminent domain."

Citing to *Baer v. Zoning Hearing Board of Quincy Township*, 782 A.2d 597 (Pa. Cmwlth 2001), the Commonwealth Court in *CMI Hartman* emphasized that the preexisting nonconforming use doctrine is premised on the concern that retroactive enforcement of zoning to extinguish a use that was legal at the time it came into existence may amount to a taking without compensation.

As noted in the opinion, another panel of the Commonwealth Court in *Hager v. W. Rockhill Township Zoning Hearing Board*, 795 A.2d 1104 (Pa. Cmwlth. 2002) concluded that "a preexisting nonconforming use 'arises when a lawful existing use is subsequently barred by a change in the zoning ordinance.'"

In *Hager*, the Commonwealth Court pointed out that "the right to maintain a preexisting nonconforming use is available for uses that were lawful when they came into existence prior to when the prohibitory ordinance took effect."

Quoting its previous ruling in *Hunterstown Ruritan Club v.*

Straban Township Zoning Hearing Board, 143 A.3d 538 (Pa. Cmwlth. 2016), the Commonwealth Court in *CMI Hartman* reiterated that the right to continue a legal nonconforming use is entitled to the constitutional protect of due process.

The Commonwealth Court in *CMI Hartman* agreed with the trial court's ruling that the use of the four building structures as single-family homes preceded the zoning ordinance and represented a lawful nonconforming use.

The Commonwealth Court in *CMI Hartman* did caution that this vested property right can be extinguished if the nonconforming use is a nuisance or abandoned or by way of eminent domain. However, since none of the elements to eliminate a lawful nonconforming use were present, the Commonwealth Court in *CMI Hartman* found that the condominium declaration represented a lawful change in the manner of ownership of the four building structures.

The Commonwealth Court in then turned its attention to the MPC's and the SALDO's shared definition of subdivision—"the division or redivision of a lot, tract or parcel of land into two or more lots, tracts, parcels or other division of land including changes in existing lot lines for the purpose, whether immediate or future, or lease partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development."

Citing to the UCA, the Commonwealth Court in *CMI Hartman* explained that "a declaration of condominium results in the creation of condominium units, not property lots" and, therefore, the creation of a condominium did not constitute a subdivision of property for purposes of the application and approval process set forth in the MPC.

Furthermore, the Commonwealth Court in *CMI Hartman* noted that "the division of a parcel into separate tax parcels does not

subdivide for zoning purposes the lot on which the separate tax parcels have been created.”

In *CMI Hartman*, “the trial court also observed that no lots were created or changed when the declaration was recorded.”

As such, the Commonwealth Court in *CMI Hartman* agreed with the trial court’s rationale that no subdivision took place when the condominium declaration was filed since, by definition under the MPC and the SALDO, “changes in existing lot lines” must occur for a definition to take place thereunder.

Furthermore, the Commonwealth Court in *CMI Hartman* believed the filing of the condominium declaration did not constitute a “land development” under the definition of that term in the MPC and the SALDO, as the condominium declaration itself did not contemplate the alteration or improvement of land in any way.

The Commonwealth Court in *CMI Hartman* then analyzed whether application of Section 3106 of the UCA would compel a different result.

The UCA was adopted in 1980 to govern the formation and operation of condominiums in the Commonwealth of Pennsylvania.

Under Section 3106(a) of the UCA, there is a general rule which prohibits discrimination against the condominium form of ownership for identical developments. As stated previously, the physical nature of the property before and after the filing of the condominium declaration was indistinguishable, and the Township even conceded that it would have no issue with the property if it was to remain four single-family rental dwellings.

Agreeing with the trial court’s assessment, the Commonwealth Court in *CMI Hartman* found that the township violated Section 3106(a) of the UCA through its unlawful bias against the condominium form of ownership.

As for subsections (b) through (d) of Section 3106 of the UCA, it essentially confirms that land use and zoning rules, regulations, and laws are not overridden by the UCA.

The Commonwealth Court in *CMI Hartman* stated that the condominium declaration does not implicate Section 3106(b) because the property fits definition of a lawful, nonconforming use under the SALDO and other local zoning rules, regulations and laws.

Additionally, the Commonwealth Court in *CMI Hartman* indicated that Section 3106(c) does not affect the status of the lawful, nonconforming use of the property simply through “the creation of a condominium out of a lot that had previous land development or subdivision approval.”

Finally, since the property is in compliance with local zoning rules, regulations, and laws as a lawful, nonconforming use and did not require the construction of any structure or building on any unit or common facility of the property, the Commonwealth Court in *CMI Hartman* concluded that the property is in compliance with Section 3106(d) of the UCA.

In 2011, CMI Hartman acquired the property.

The following year, CMI again proposed the conversion of the property to condominium ownership, which drew the same reaction from the township’s planning commission.

In late 2016, CMI formally converted the single-family homes on the property to four condominium units with separate tax parcel numbers, the opinion said. One of the primary benefits of a condominium is that it allows interests in real estate to be divided in a manner that normally would not be possible under subdivision and land development requirements discussed later in this article.

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How to Appeal Your 2023 Philadelphia Tax Assessment

Every few years, the city of Philadelphia conducts county-wide tax reassessment to determine property values in the city and tax their owners accordingly beginning in the following year. But, as a property owner your property and land can be reassessed at any point in time if the city of Philadelphia's Office of Property Assessment (OPA) believes that your taxes do not reflect the value of your property.

Since the city's valuation process is opaque, there is a likelihood that your property's value is not accurately assessed. When this happens, you may end up paying more than

you need to in property taxes in the coming years. In order to avoid paying unfair taxes on your property, you can appeal any new tax assessments to the city of Philadelphia's Board of Revision of Taxes (BRT), and our team of attorneys will walk you through the process.

What Is a Philadelphia Property Tax Assessment Appeal?

Once you receive a notice of a new property tax assessment on your property, or believe that your existing property tax assessment is inaccurate, you can appeal it with the BRT. This is an opportunity to have your property tax assessment reevaluated so that you can pay a fair property tax that is based on your property's value.

When you file an appeal, the BRT will look at the documents you provide to reassess your property assessment and the property taxes you will owe. When you appeal the property tax assessment, you can either have your appeal accepted and your property tax assessment changed, or have your appeal rejected.

How Do I Start a Philadelphia Property Tax Assessment Appeal?

If you decide to start the appeal process, you need to have all the necessary documents, which we will go over below. If you did not receive the forms from the OPA to request an appeal of the property tax assessment to the BRT in the mail, you should contact the OPA to request replacement forms.

What Should I Know About

Philadelphia Property Tax Assessment Appeals?

Before you start the appeal process with the BRT, there are a few things you should keep in mind:

Prepare your documents

Property tax assessment appeals require a lot of documents, so you will need to have everything in order before you start your appeal. You will need the [forms](#) that the OPA sent you with your updated property tax assessment, or you can request new ones. You will also need [documents about the property](#) so the city can properly assess its value. This includes an appraisal, which must be professionally performed for properties assessed over \$1 million.

Be aware of the risks

Since property tax assessment appeals provide more information to the OPA than they currently have, there is a chance that your property is reassessed at an even higher value. If that happens, you will need to pay more in property taxes than you currently do and there is no chance for the tax rate to decrease. Before filing your appeal, it is important to weigh the risks and know that the process may result in an undesirable outcome.

Know the different processes for different properties

A residential property that you own and live in is different from a commercial property or an investment property, and the OPA assesses properties depending on their use. It is important to know this going into the process, and it can help you decide if you need to call in an attorney if the process is going to be complicated.

Plan Ahead

No matter when you get your property reassessment, appeals are all due on the same day. Be sure to plan ahead and have your appeal submitted by the first Monday in October to prevent changes in your property taxes for the coming year. If you wait until after that date, your new property assessment will go into effect in the new year.

Find an expert

Property tax assessment appeals are not part of your normal routine. But they are the bread and butter of real estate legal professionals. For appeals, you can help mitigate the risks when you tap expert advice. It is difficult to know what you do not know, so enlisting the help of such an attorney can help you navigate the legal process a little easier.

When it comes to property tax assessment appeals, it is possible to do it on your own. But, when you bring in expert advice, the process and your options are clearer. As attorneys, we are here to help you make sure you only pay fair taxes on your property, whether you are appealing for your own home or an investment property. We can help make the process simple and straightforward, just [get in touch with our team today](#).

Vertical Position 50

Court Addresses Whether a

Tenant Can Enforce a Right of Refusal in Third-Party Sale

In *Tri-Outdoor v. Keyser*, 2022 Pa. Super. Unpub. LEXIS 891 (Apr. 18, 2022), the Pennsylvania Superior Court recently addressed whether a tenant could specifically enforce a right of first refusal provision contained in a lease agreement where the landlord sold the leased premises to a third-party purchaser.

In *Keyser*, the landlord and tenant entered into a written lease for purposes of the tenant erecting a billboard on the leased premises, the opinion said.

Under the written lease, the 20-year lease term began upon the completion of construction of the billboard, the opinion said.

In the written lease, the tenant was also granted a right of first refusal to purchase the leased premises “at the same price and on the same terms as any proposed sale that the landlord desires to consummate.”

According to that lease provision, the landlord was obligated to provide written notice to the tenant of any offer received from an interested third-party purchaser, at which point the tenant would have 30 days from the date of receipt of such written notice to exercise the tenant’s right of first refusal.

After the execution of the written lease, the tenant paid for a survey of the leased premises and a wetlands study as well as for contractors to prepare the leased premises for construction of the billboard, the opinion said.

According to the opinion, when the landlord received an offer from a third-party to purchase the leased premises for \$18,000, the landlord mailed written notice of the offer to

the tenant.

Notwithstanding the foregoing, within the 30-day exercise period, the landlord, unbeknownst to the tenant, sold the leased premises to a third-party purchaser for \$9,000, the opinion said.

Within the exercise period, but after the leased premises was already sold, the tenant notified the landlord of the tenant's intention to exercise the tenant's right of first refusal to purchase the leased premises from the landlord.

Upon discovering that the leased premises was sold, the tenant filed a complaint against the landlord and the third-party purchaser with the Northampton County Common Pleas Court, requesting, among other things, specific performance of the tenant's right of first refusal contained in the written lease.

The trial court originally found that the tenant had not established valid consideration for the written lease and, therefore, dismissed the complaint.

The tenant then appealed the trial court's ruling to the Superior Court.

Disagreeing with the finding that no consideration was established by the tenant on account of the written lease, the Superior Court reversed the trial court's ruling and remanded the case for further proceedings to determine whether specific performance should issue in light of the equities between the parties.

On remand, the trial court dismissed the action for specific performance, concluding that the third-party purchaser should be deemed a bona fide purchaser for value because it did not have actual or constructive notice of the tenant's right of refusal to purchase the leased premises from the landlord under the written lease.

Yet again, the tenant appealed the trial court's ruling to the Superior Court.

According to the Superior Court in *Keyser*, "a request for specific performance invokes the equitable powers of the trial court," and "will only be granted if the plaintiff is clearly entitled to such relief, there is no adequate remedy at law, and the trial judge believes that justice requires such a decree."

The Superior Court then referenced the case of *Thuemler v. Brown*, 18 Pa. Super 117 (1901) in which a landlord sold a leased property to a third-party purchaser and the tenant attempted to enforce an option-to-purchase clause contained in the written lease between the parties.

In *Thuemler*, the Superior Court held that "the sale of land to a third-party, in derogation of an option-to-purchase clause," typically renders the landlord "liable for the damages resulting to the lessee by reason of the breach."

The Superior Court in *Keyser* emphasized that "equity has only interposed the remedy of specific performance in cases where the land at issue was unique," such that "the incidental or consequential damages of contract law would not make the optionee whole."

The Superior Court in *Keyser* then pointed to the case of *Boyd & Mahoney v. Chevron U.S.A.*, 614 A.2d 1191 (Pa. Super. Ct. 1992), in which an award of specific performance to a real estate leasing company that had a right of refusal clause in the seller's deed was affirmed on appeal.

In *Boyd & Mahoney*, the Superior Court agreed that the land was highly special to the real estate leasing company because it was situated at the entrance to the real estate leasing company's commercial development properties that would have allowed the real estate leasing company to control the architectural design and future development of the area.

In comparison, the Superior Court in *Keyser* believed that the tenant “had no particularly compelling need for the leased premises (a small triangle with space for a single billboard) such that damages at law would be inadequate to remedy” the landlord’s breach of the right of first refusal provision contained in the written lease between the parties.

Since the Superior Court concluded that the tenant had an adequate remedy at law, such as the money spent preparing the leased premises for erecting the billboard, it allowed for the dismissal of the specific performance action.

In doing so, the Superior Court in *Keyser* did not believe it was necessary to analyze whether the third-party purchaser should be deemed a bona fide purchaser for purposes of dismissing the specific performance claim on these grounds as well.

Regardless, the Superior Court in *Keyser* noted that, even if that issue was not moot, it stated that it would have affirmed the trial court’s ruling on those grounds as well since the third-party purchaser had neither actual nor constructive notice of the right of first refusal provision contained in the written lease.

[Alan Nochumson](#) is the sole shareholder of Nochumson P.C., a legal services firm with a focus on real estate, land use & zoning, litigation, and business counseling for the people of Pennsylvania and New Jersey. Nochumson is a frequent author and lecturer on issues commonly confronting businesses, individuals and professionals. You can reach him at 215-399-1346 or alan.nochumson@nochumson.com.

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Vertical Position 60%

A Look at Recently Enacted or Pending Philadelphia Real Estate Laws

As Philadelphia City Council enjoys its summer recess, this is a good opportunity as any for us to review recently enacted or pending laws that will affect the personal and business lives of individuals and corporate entities situated within the city of Philadelphia.

Bill No. 210081—Limited Lodging

The new law regarding Airbnbs and other short-term rental accommodations within city limits went into effect recently. The city government now only allows “limited lodging,” or short-term rental accommodations, of a unit that is the owner’s primary residence. Property owners considering limited lodging must first obtain a limited lodging operator license from the city government, then list the rental through a booking agent with a limited lodging and hotels booking agent license. For a property owner hoping to lease a property that is not their primary residence, the property owner will have to obtain a zoning permit either as of right under a zoning classification that allows for “visitor accommodation” or seek and obtain a variance under the Philadelphia Zoning Code to

allow for such a use of the property. A number of other requirements were created under the new law, regulating tenant behavior, advertising and licensing.

Bill No. 210633-A—The Mix Income Neighborhoods Overlay Bill

This new law, which goes into effect on July 18, will require 20% of residential units in any new housing development with 10 or more residential units in select tracts of the 3rd and 7th Councilmanic Districts be made available at restricted pricing for a 50-year period. At least 15% of these affordable units must be on-site. The new law offers real estate developers and investors the chance to apply for a waiver from the City Planning Commission to fulfill up to 5% of the requirement via offsite units or a Housing Trust Fund contribution. These units must be affordable for rental households earning up to area median income (AMI) of 40%, and for owner-occupied households earning up to 60% of AMI.

Bill No. 210917-A—Leasing of Commercial Property

As of March, commercial tenants must be afforded the opportunity to determine the zoning and approved uses for a commercial property before entering a lease arrangement. The landlord must give the tenant written notice on how to determine the zoning and approved uses of the leased premises and an acknowledgement form signed by both parties, indicating that the tenant received the requisite written notice. The new law provides tenant with a private right of action against any landlord which fails to comply with it.

Bill No. 220337—Commuter Transit Benefit

Program

Beginning in 2023, a commuter benefits program will empower thousands of Philadelphia workers to use pre-tax income to cover commuting costs. The law, introduced by Councilmember Helen Gym, and enacted in early June, will require employers with more than 50 full-time employees in Philadelphia to offer a commuter benefits program, which can be used for public transit passes and fares, van-pooling and potentially bicycle expenses. Cities such as New York City, Seattle and Washington, D.C. have already implemented similar governmental programs.

Bill No. 220186–Affordable Workforce Housing

A new governmental program providing a homebuying preference for qualified employees working for the city government will commence in late July. The new law directs the city's Office of Housing and Community Development to draft and set regulations governing the manner in which governmental employees and other preferences will be applied within its workforce housing programs.

Bill No. 220413–Real Estate Taxes (in Council)

This bill was introduced by Councilmember Mark Squilla on May 12. The bill proposes that, for real estate taxes due for the 2023 tax year, no interest, penalties, or additional charges will accrue while an appeal of a property's assessed value is pending before the city's Board of Revision of Taxes (BRT), provided that the tax assessment appeal was timely filed and the taxpayer has paid by March 31, 2023, an amount equal to the real estate taxes due on the property for the 2022 tax year.

Bill No. 220414–Philly Tree Fund Bill (in Council)

This bill, introduced by Councilmember Katherine Gilmore Richardson, seeks to increase the tree canopy across the city of Philadelphia, preserve existing trees, and impose fees for real estate developers and investors who cut down trees with no plan to replace them.

The bill provides for a payment to the Philly Tree Fund in lieu of planting trees, which Gilmore Richardson hopes will allow the city to reach its goal of tree canopy of 30% across all of its neighborhoods by 2030.

According to the Philadelphia City Council's website, the bill comes after the city's tree cover has declined by 6% since 2008 due to rapid development in residential areas. Improving the city's tree canopy will enhance property values, reduce summer peak temperatures and air pollution, improve social ties among community members and provide obvious aesthetic benefits.

Bill No. 220110–Demolition of Religious Structures (in Council)

On Feb. 10, Councilmembers Curtis Jones, Jamie Gauthier and Allan Domb introduced this bill that amends the Philadelphia Code to include additional requirements for demolitions permits for building structures currently or previously used as religious facilities.

The bill would require the city's Department of Licenses and Inspections (L&I) to verify if a building structure is or was used as a religious facility. If the building structure is a religious facility and is at least 50 years in age, L&I must notify the applicable district councilmember and the applicable registered community organizations (RCOs) of the

demolition permit application, and, after that occurs, the applicable RCOs must hold a meeting with the community and confirm with L&I that they discussed demolition within 30 days of receiving notice of the demolition permit application, with L&I then considering the position of the RCOs in making the decision whether to issue the demolition permit. If passed, the bill will take effect immediately.

Bill No. 220008—Protection for Properties Adjacent to Construction (for Mayoral Review)

This bill, introduced on Jan. 20 and effective on Jan. 1, 2023, would increase the protections afforded to adjacent property owners during construction. Specifically, under the bill, property owners would be responsible for preparing and submitting plans to protect those adjacent properties including details on adjoining or adjacent buildings structures and any element that may be impacted by the construction; documentation of the existing conditions of adjoining or adjacent building structures; photographs of the existing conditions of adjoining or adjacent building structures; and a signed statement by the representative of the entity performing structural observations confirming the conditions in preconstruction surveys.

According to the bill, the initial notice of construction given to adjacent or adjoining property owners must include the pre-construction survey and details describing work that may affect the adjoining or adjacent property and a copy of an insurance certificate. If the property owner cannot obtain a signature from the adjacent or adjoining property owner for the building permit, evidence of delivery is sufficient to receive the building permit, but that property owner must wait 60 days prior to commencing construction activities.

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Vertical Position 60%

Why Real Estate Title Insurance Should Be Obtained In Every Transaction

In any real estate purchase, title insurance should be obtained. When land transfers owners, the new property owner can be responsible for pre-existing mortgages, unpaid property taxes, personal judgments against former property owners and even unpaid utility bills. By purchasing title insurance, the new property owner can ensure that they own the property free and clear from these potential liens and encumbrances. Simply stated, title insurance protects buyers from any issues with the title of the property, making the transaction less risky.

The Benefits of Title Insurance

1. Circumvent Mortgage Responsibilities

Obtaining title insurance can help you protect your investment in cases where the previous property owner took out a mortgage to buy the property.

Take this as an illustrative example. In a real estate transaction, the current property owner probably took out a mortgage to purchase the property in the first place. Assume the current property owner's mortgage is \$200,000 and agrees to sell the property for \$300,000. If the mortgage is not paid in full when the property is transferred, that mortgage will remain as a lien against the property and does affect how much the new property owner will receive after they sell the property in the future.

Why is this the case? Assume the new property owner sells the property for \$300,000, the same amount they purchased the property for. After paying the \$200,000 mortgage lien from the sale proceeds, the new property owner will only be left with \$100,000 of their \$300,000 initial investment. This could be a rather costly mistake.

2. Protect Yourself from Unpaid Property Taxes

Title insurance can also help protect you from a previous property owner's unpaid property taxes. Take the previous example and apply it to a case with unpaid property taxes. Say, for instance, the current property owner does not pay the property taxes during all of his years of ownership. The unpaid amount serves as a lien against the property, and that property tax lien will only be removed when that amount is

paid in full.

3. Avoid Complications with Personal Judgments

Personal judgments against former property owners also may have a negative effect on the state of title to the property. In Pennsylvania, a personal judgment attaches to all real estate that an individual owns at the time the judgment is entered, meaning you could be buying a property with a judgment lien. In a future sale of the property, the sale proceeds will first be applied to satisfy that judgment.

4. Steer Clear of Utility Responsibility

Depending upon the jurisdiction, unpaid utility bills also attach to a property. At closing, these bills must be paid in full. As an initial step, the new property owner must first find out which utilities may attach as a lien, which can be tricky as each county is different. Then, the new property owner must determine if any such bills remain unpaid, otherwise the new property owner will be literally and figuratively footing the bill in the future.

5. Protect Your Purchase

As a new property owner, you should also purchase title insurance to make sure that your transaction is valid. In this day and age, identity theft is prevalent. As a new property owner, you must make sure that the current property owner is the actual person on the deed to the property. If the current property owner is not that person, the new property owner will be purchasing that person's interest in the property, which is nothing.

However, there are some cases that are less fraudulent but rather a result of neglect. A lot of times, the person selling the property does not even remember how they came to own the

property. They may own the property through a corporate entity or a married couple thinks they are both the owners of the property when they are not. This is a common occurrence when one spouse purchases the property before marriage and the other spouse moves into the property after marriage. The couple equally pays for all the property expenses during the marriage, so naturally they assume they equally own the property, which they do not.

When it comes to making smart real estate decisions, obtaining title insurance makes plain sense. While many of these situations may not come to pass, it is more advantageous to have this type of insurance so you are prepared for the worst case scenarios.

Vertical Position 50%

Programs to Help Reduce Impact of Higher Philadelphia Property Tax Assessments

For the first time in several years, the city government in Philadelphia has begun to issue property reassessments by way of its tax assessment department, the Office of Property Assessment.

According to the Office of Property Assessment, a strong real estate market has caused the aggregate value of all properties in Philadelphia to rise approximately 21% since the last property reassessment.

In this article, we outline the various governmental programs

that will reduce the impact of the increased proposed property assessments in order to ensure that real estate taxes remain affordable to the some of the most vulnerable property owners in Philadelphia.

Homestead Exemption

The Homestead Exemption currently reduces the taxable portion of a primarily residential property by \$45,000.

Currently, the Homestead Exemption of \$45,000 equates a savings to of approximately \$630 on a property owner's real estate tax bill. However, Mayor James Kenney has stated his desire for Philadelphia City Council to introduce and enact legislation increasing the Homestead Exemption to \$65,000, equating to additional real estate tax savings. If the proposed increase in the Homestead Extension passes, property owners need not reapply to the program—the change will be automatically applied.

In order to be eligible for the Homestead Exemption, the individual must typically own and reside at the property and the property must not be subject to a real estate tax abatement,

An individual who resides at a property may be eligible to receive a conditional Homestead Exemption even if that individual's name is not on the deed to the property, if the individual inherited the property from a deceased relative, if a fraudulent deed was recorded against the property, or if the individual entered into a rent-to-own agreement and has paid all or some of the monetary consideration for the property. Under these circumstances, the Homestead Exemption would be granted three years from the date of application.

The deadline to apply for the Homestead Exemption is Dec. 1 of previous tax year. However, property owners should file the application by Sept. 13, 2022, to ensure that the Homestead

Exemption is reflected on their real estate tax bill for the 2023 tax year.

An individual may apply for the Homestead Exemption at [//rev.phila.gov/homestead/](https://rev.phila.gov/homestead/), by calling 215-686-9200, or by mailing the following application at city of Philadelphia, Department of Revenue, P.O. Box 52817, Philadelphia, Pennsylvania 19115: <https://www.phila.gov/media/20220223090043/Homestead-Exemption-application-Philadelphia-2023-form.pdf>

Longtime Owner Occupants Program (LOOP)

LOOP is a real estate tax relief program for eligible property owners whose property assessments have increased by 50% or more from the previous tax year.

This governmental program is advantageous for property owners in rapidly gentrifying neighborhoods, as it locks in a property reassessment at 150% of the previous tax year's property assessment for as long as the property owner remains eligible under this governmental program.

In order to be eligible for this governmental program, the individual must: reside at the property for a minimum of the previous 10 years; be current with their real estate taxes for the property or be a participant in an owner-occupied payment agreement or installment plan; and have income that falls below this governmental program's limits.

To apply for this governmental program, the individual must complete the following application and mail it to Philadelphia Department of Revenue, P.O. Box 53250, Philadelphia, Pennsylvania 19105: [//www.phila.gov/media/20220513080323/Longtime-Owner-Occupants-Program-LOOP-application-2023.pdf](https://www.phila.gov/media/20220513080323/Longtime-Owner-Occupants-Program-LOOP-application-2023.pdf)

In the alternative, the application can be hand-delivered to the following locations:

Municipal Services Building

Department of Revenue

1401 John F. Kennedy Boulevard

Philadelphia, PA 19102

Northeast Municipal Services Center

7522 Castor Ave.

Philadelphia, PA 19152

Hope Plaza

North 22nd St. and West Somerset St.

Philadelphia, PA 19132

Low-Income Senior Citizen Real Estate Tax Freeze

The city of Philadelphia's Department of Revenue offers to prevent a real estate tax bill from increasing if the affected individual meets certain age and income requirements.

This real estate tax freeze applies even if the property assessment or tax rate changes. If the real estate tax liability decreases due to a lower property assessment or tax rate decrease, the amount of real estate taxes the affected individual owes in real estate taxes will also be lowered to a new amount.

Last, Councilmember Brian O'Neill introduced legislation that would extend the deadline to apply for the tax freeze.

An individual is eligible under this governmental program if the individual is aged 65 years or older; resides in the same household with a spouse who is aged 65 years or older, or is aged 50 years or older who is a widow of a spouse who reached

the age of 65 before passing away.

An applicant under this governmental program must have a total income of \$33,500 or less for a single individual or \$41,500 or less for a married couple.

To apply for this governmental program, the individual must complete the following application and mail it to Philadelphia Department of Revenue, P.O. Box 53190, Philadelphia, Pennsylvania 19105.

In the alternative, the application can be hand-delivered to the same above locations.

Real Estate Tax Installment Plan

Senior citizen and low-income individuals who own and reside in the property may be eligible to pay their property's real estate tax obligations in monthly installments to the city government in Philadelphia.

If first-time participants in this governmental program make all required monthly payments, they will be automatically enrolled in the installment plan for the following tax year. However, if the individual fails to make the monthly payment due under this governmental program, that individual will be considered in default, removed from this governmental program, and all real estate taxes will be due at that time.

Individuals who are at least 65 years of age or have a spouse who resides in the same household who is at least 65 years old may be eligible.

In addition, low-income individuals may be eligible based on family size and monthly maximum household income.

To apply, an individual must complete the following application and mail it to Philadelphia Department of Revenue, P.O. Box 53250, Philadelphia, Pennsylvania 19105:

<https://www.phila.gov/documents/real-estate-tax-installment-plan-application/>.

In the alternative, the application can be hand-delivered to the same above locations.

The application window for the 2022 tax year closed in March, so interested property owners will have to look ahead to apply for this governmental program for the 2023 tax year.

Owner-Occupied Real Estate Tax Payment Agreement (00PA)

Under 00PA, property owners may make monthly payments on real estate taxes which are past due.

To be eligible under this governmental program, the individual must reside in the property that the individual owns or, if the name of that individual is not on the deed to the property, the individual must have a legal interest in the property.

In order to maintain eligibility under this governmental program, the individual must pay all new real estate taxes as they become due.

To determine the minimum monthly payment amounts, participants under 00PA are arranged into one of five tiers, with tiers based upon monthly household income and family size, as follows:

A property owner who finds that the monthly payment due under this governmental program is not affordable may request that the monthly payment is based upon their net monthly income after taking into account their monthly expenses.

To apply, an individual must complete the following application and mail it to Philadelphia Department of Revenue, P.O. Box 53250, Philadelphia, Pennsylvania 19105:

<https://www.phila.gov/documents/owner-occupied-real-estate-tax-payment-agreement-forms/>.

In the alternative, the application can be hand-delivered to the same locations above.

Active-Duty Tax Credit

The Active-Duty Tax Credit is designed for members of the United States Armed Forces Reserve or National Guard called into active duty.

This governmental program relieves such military service members from paying real estate taxes in Philadelphia while they are called to active duty outside of Pennsylvania.

To be eligible under this governmental program, the individual must own the property as their primary residence.

The real estate tax credit amount under this governmental program is calculated by taking the portion of real estate tax you which would otherwise be due for a full tax year and dividing that number by the number of days in a calendar year. This number is called the “daily property tax rate.” The daily property tax rate is then multiplied by the days the individual spends on active duty. The resulting number is the amount of real estate tax credit the applicant will be eligible to receive.

To apply for this governmental program, an individual must complete the following application and mail it to Philadelphia Department of Revenue, P.O. Box 53190, Philadelphia, Pennsylvania 19105:
[//www.phila.gov/media/20220228090124/Active-Duty-Real-Estate-Tax-Credit-application-2022.pdf](https://www.phila.gov/media/20220228090124/Active-Duty-Real-Estate-Tax-Credit-application-2022.pdf)

In the alternative, the application can be hand-delivered to the same locations above.

Real Estate Tax Deferral Program

The city government in Philadelphia offers a deferral program for property owners who see their real estate taxes increase by more than 15% from the previous tax year.

Considering the dramatic rise in property assessments proposed for the 2023 tax year, the property owner should determine if they meet the eligibility criteria for this governmental program.

In order to be eligible, the individual must use the property as their primary residence and all real estate taxes on the property must be up-to-date or under a payment agreement or installment plan.

If eligible, the property can defer payment of the real estate taxes which otherwise would be due until the property is sold or transferred, but they must pay a minimum annual interest rate of at least 2% until that occurs.

Eligibility is determined by annual household income and size, as follows:

Applications under this governmental program for the 2022 tax year have yet to be released online, but, as a guide, the applications for the 2021 tax year may be reviewed online at <https://www.phila.gov/documents/real-estate-tax-deferral-application/>

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