



**MARYLAND 'S HIGHEST COURT AFFIRMS
"DATE OF FINALITY" RULE FOR PROPERTY TAX ASSESSMENTS**

Michael G. Campbell, Esq.

Miller, Miller & Canby

200B Monroe Street

Rockville, MD 20850

Phone: 301-762-5212

mgcampbell@mmcanby.com

After six levels of appeal, the Court of Appeals of Maryland recently settled state law concerning the “date of finality” in property tax assessments. Prior to the appellate decisions, it was generally understood by practitioners that when real property is valued every three years as of January 1 – the date of finality – only sales of comparable properties prior to January 1 could be considered. In 2015, however, the Court of Special Appeals held that sales after the date of finality can also be considered in certain circumstances. That decision was affirmed by the Court of Appeals in *Lane v. Supervisor of Assessments*, 2016 Md. LEXIS 279, 2016 WL 1742793 (2016). This article reviews the lengthy appeals process in *Lane* and the effect of the final decision.

In the proceedings leading up to the *Lane* decision, the Supervisor of Assessments of Montgomery County issued a notice of assessment of \$2,130,000 on a high-rise condominium unit in Chevy Chase, Maryland. The assessment was effective as of the date of finality of January 1, 2011. The owner, Ann Lane, appealed the valuation to the local assessment office

and was given a “first level” review hearing with the assessor. The assessor refused to lower his original assessment. As was her right, Ms. Lane filed an appeal to the Property Tax Assessment Appeals Board (PTAAB). At the PTAAB hearing, she argued that other comparable units were valued at a lower rate. After considering the evidence, the Board affirmed the valuation and noted that the “floor premium” used by the assessor should be higher than comparable units on lower floors.

Ms. Lane appealed again to the Maryland Tax Court, an independent agency that provides the highest administrative level hearings for state and local tax-related appeals. During a *de novo* trial, the State Department of Assessment and Taxation (SDAT) presented evidence of condominium sales in the same building *after* the date of finality, January 1, 2011. The State’s appraiser testified about sales of three condominium units that closed in May 2011. Over the owner’s objections, the Tax Court received this new evidence for consideration. Ultimately, the Tax Court granted Ms. Lane a nominal reduction in value to \$2,075,000.

Undeterred, Ms. Lane sought judicial review in the Circuit Court for Montgomery County, Maryland, the county in which the property was located. She argued that, *inter alia*, the Tax Court committed an error of law by considering sales that occurred after the date of finality. She cited to the Maryland Code, which provides that for property tax assessments “the value of real property shall be its value on the date of finality.” Md. Code, Tax-Prop. Art. § 8-102. In a later section of the Code, the “date of finality” is defined as “the January 1 immediately before the 1st taxable year in which the assessment based on the new value is applicable.” Tax-Prop. § 8-104(b)(2). Ms. Lane contended that the language of this statute prohibited the consideration of sales subsequent to the date of finality. The circuit court agreed and remanded the case to the Tax Court for reconsideration.

The State immediately appealed the circuit court decision to the Court of Special Appeals of Maryland. The Court disagreed with the owner's reading of the statute, noting that the statute provides that property must be valued as of the date of finality but does not specify *how* it is to be done. The Court observed that valuation of real property "is not an exact science" and the goal is to determine value. In this regard, the Court noted that, since 1992, SDAT and its local taxing authorities have considered sales after the date of finality when such sales are found to be reasonably close in time to the date of finality and otherwise comparable. Ultimately, the Court held that admissibility of evidence is determined by relevancy and post-finality sales might well be relevant to valuation.

Still undeterred, Ms. Lane sought further review by the Court of Appeals of Maryland, the state's highest appeal court, through a petition for certiorari. The Court accepted the petition in order to make a final determination on the issues presented, which included: (1) Whether Maryland statutory law precludes the Tax Court from considering comparable sales after January 1; and (2) Whether consideration of such evidence violates the "uniformity" requirement of the Maryland Declaration of Rights.

In its analysis, the Court of Appeals repeated the notion that valuing properties is not an exact science and that assessors have reasonable latitude in choosing an appropriate method of valuation. The Court ruled that sales of comparable properties occurring "reasonably soon after the date of finality" are relevant to the assessment of the property as of the date of finality. The Court surveyed other jurisdictions and found that this conclusion was in line with several other state courts, including New York, New Jersey, Illinois and Oregon. Thus, the Court held that Maryland law does not preclude the Tax Court from considering sales after January 1.

As to the second issue, Ms. Lane argued that the Tax Court could not consider evidence that differed from the evidence presented to PTAAB. The Court disagreed and ruled that the Tax Court hears cases *de novo* and could “consider whatever evidence that, within reason, the court deemed relevant.” Next, she argued that the rule of uniformity required the Tax Court to assess her property consistent with the assessment of virtually identical units in the building. The Court rejected this argument as well, finding that the Tax Court complied with the law because the property was assessed at its full cash value, which is the “economic yardstick” used to assess all real property.

On a procedural level, the *Lane* case demonstrates the lengthy tax assessment appeal process that can be pursued by property owners in Maryland. Ms. Lane clearly felt aggrieved by the assessment on her property and was willing to take her appeal through six different levels, all the way up to Maryland’s highest court. As to the legal issue, the Court of Appeals has now settled the matter and decided that the “date of finality” is a flexible concept and January 1 is no longer a bright line. Any sales after January 1 may be considered if they are reasonably close in time to the date of finality and otherwise comparable. This gray line is sure to lead to future debates about what is “reasonably close in time” to January 1. The *Lane* case involved several sales in May, which was five months beyond the date of finality. What about comparable sales in June or during the latter half of the year? In light of the *Lane* decision, property tax practitioners (and their appraisers) should consider comparable sales after January 1 and, if helpful to an appeal, cite such sales and be prepared to argue the reasonableness of the time frame. Conversely, an appellant should be ready to challenge the State’s comparable sales if the timing of any sale is not reasonably close to the date of finality.