P U B L I C H E A R I N G

before

Assembly Committee on Taxation
on
Assembly Bill No. 2291
(Property Tax Assessments)

Held:
July 6, 1971
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman William K. Dickey (Chairman)
Assemblyman Joseph H. Enos
Assemblyman C. Richard Fiore
Assemblyman Joseph M. Healey

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ASSEMBLYMAN WILLIAM K. DICKEY (Chairman): Ladies and gentlemen, I will call the public hearing before the Assembly Taxation Committee to order.

First of all, I would like to introduce the members of the Committee who are here. My name is Bill Dickey, I am State Assemblyman representing Camden County, District 3C; to my right is Assemblyman Joseph Healey representing Hudson County; and at the witness desk is Assemblyman Richard Fiore representing Essex County.

This is a public hearing concerning Assembly Bill No. 2291, an act which, if enacted by the Legislature would change the procedure in proceedings to review the property tax assessments and establish certain rules of evidence relative thereto.

The first witness this morning will be the principal sponsor of the Bill, Assemblyman C. Richard Fiore of Essex County. Mr. Fiore, you may proceed.

C. R I C H A R D F I O R E: Thank you, Mr. Chairman.

I am Assemblyman C. Richard Fiore from Essex County and I am here to speak on Assembly Bill No. 2291.

The homeowners of the State of New Jersey are confronted with enormous tax increases as a result of recent decisions of the Division of Tax Appeals and the Appellate Courts granting tax relief on commercial and industrial properties.

Reduced assessments are being granted on appeals by applying a ratio established by the Legislature for allocating State School Aid to municipalities.

The ratio is arrived at by comparing actual property sale prices to the municipal assessments for real estate taxes. The use of this ratio for reviewing tax assessments was neither intended nor authorized by the Legislature.

The impact of the recent decisions could produce losses of 20% or more in tax ratables in many municipalities.

In Newark, for example, the School Aid equalization ratio is 80.1% of the actual assessment. This could produce appeals and lowered assessments that would cut as much as $221 million from the City's current ratables of $1,142,000,000. This, in turn, would create a loss of $22 million in tax dollars.

With the municipal budget remaining the same, this would force more than 150 points in the City's already high tax rate and since the greatest benefit from such assessment reductions would go to business and industry a tremendous amount of the tax burden would shift to small home owners.

This bill will make the equalization ratio used for school aid inadmissible as evidence in tax assessment appeal cases, and that the municipality assesses at the level of taxable value established by the County Tax Board of Taxation.

This bill has been endorsed by:

1. Association of County Tax Board Commissioners
2. Association of County Tax Board Secretaries.
3. New Jersey League of Municipalities Tax Study Committee.
4. Association of Municipal Assessors of New Jersey
5. Tax Assessors Association of New Jersey

A question on this bill has been brought up: If the Bill were enacted the homeowner won't be able to prove discrimination. False.

Under this bill the taxpayer will be able to prove discrimination by reference to actual transactions in the municipality, but this will require the Division of Tax Appeals to ascertain whether or not discrimination actually exists, not merely using an artificial ratio which may be based on only one sale of a particular type

of property or which may represent a unique situation not typical of the community.

Furtheremore, the present system already discriminates against the homeowner. Value in homes can be realistically establishedbut the income approach used by the Division virtually assures that the other properties, such as large apartment houses, stores and factories, will be assessed at lower values.

Why not assess at true value and then apply ratio:

Municipality does assess at true value. The fact that the ratio is different doesn't prove that they are not at true value. This is a distorted use of a system established for allocation of school aid.

An example of the results of this decision of the Division of Tax Appeals and the Appellate Courts granting tax relief on commercial and industrial properties using the sale ratio as its basis for appeal resulted in a New Jersey department store being granted a $1,284,075 reduction from true value of $8,556,675 thus having the municipality losing on one case $101,000 tax dollars which will be shifted to the homeowner.

Now, I understand presently that from the City of Newark alone there are about 900 cases before the State Tax Board and about 730 of these cases are industrial and commercial properties. And again, the shift there will go to the small homeowner who right now is burdened with a heavy property tax.

Now I have some letters here, for example, one from the New Jersey State Bar Association and, of course, they are against A-2291. Well, if I were a lawyer, a tax lawyer especially, I'd be against 2291 too.

Now when they go in for appeals, I understand they work on a fee basis, the greater the appeal, the greater the fee. Now if they applied a ratio in their appeal that appeal will be greater, therefore making their fee greater.

Also we have one from the Real Estate Board of Newark, Irvington and Hillside. And if I were appraising these

properties - again, they operate on a fee basis - the greater the assessment, the greater the fee, - well, I would be against it too if I were involved in appraising in regard to tax appeals.

Then I have one here from the Merchants Refrigerating Company, located at 850 Third Avenue in New York City. I don't mind the letter but in the letter "While I have not fully read bill A-2291, I have been informed that it contains provisions that will nullify most of the progress made toward a fair and equitable assessment of property taxes to all property owners." If I were involved with a big company, I would write the same letter, but this individual didn't read the bill and he's against it.

And, of course, the last one is the New Jersey State Chamber of Commerce which, I guess as you know and we all know, is involved with the big business of the State and, again, they have opposed the bill. And I would oppose it too because it would definitely benefit the big business of the State of New Jersey from Cape May to Bergen County.

Now, prior to this, Mr. Chairman, we had a land redemption bill which did the opposite. We seem to be working in the opposite direction to the Feder decision. We've been talking about the overburdened property owner, the small homeowner, the man who can't afford, the man whose taxes are at a point where they are confiscatory. Now, we adopted a bill in regard to land redemption and shifting that difference to the commercial-industrial building. Now we seem to be doing the opposite. Now we seem to be giving the commercial and industrial buildings the appeal and shifting it to the small homeowner. And this is what I'm objecting to. The small homeowner cannot take any more taxes on his property. And this is one of the reasons, I believe, that the Tax Policy Committee is also meeting to see what we can do with, in our State, an

archaic property tax rate in which everything falls on the homeowners of this State.

In other words, gentlemen, it's a crime now to own property because of the taxes that are involved.

Thank you, Mr. Chairman.

ASSEMBLYMAN DICKEY: Thank you, Assemblyman Fiore.

Do any of the members of the Committee wish to ask this witness any questions? (No questions)

We have with us Assemblyman Enos of Gloucester County. Mr. Enos, do you have any questions?

ASSEMBLYMAN ENOS: Not at this time, sir.

ASSEMBLYMAN DICKEY: Mr. Fiore, may I ask you about two terms that are used in your bill. What is the definition of "average ratio of assessed to true value of real property", that phrase used in your bill?

ASSEMBLYMAN FIORE: In other words, when they talk about true value, some people ask if the municipalities are assessing at true value, and I answer that they are. Now when there is property sold in that area, now some may take it on one sale and say this is the average ratio. This should not be stated that this is the ratio of the town because of a sale of maybe one property. But the true value - we say the city is assessed at and this is it. In other words, we claim that the cities do assess at true value.

ASSEMBLYMAN DICKEY: Now is there a difference in the phrase "general ratio at which real property is assessed" is that something else?

ASSEMBLYMAN FIORE: Yes. The general ratio is the ratio that the county tax board assesses our property at. Now, using the Feder decision, what we're doing here is, we're pre-empting the county tax board and what we're saying is, this decision, the Feder decision, or the school aid formula will now become the means of assessment and through the assessment the means of a tax rate established

in a community, and this can affect the community without changing the municipal budget, as I have stated. In other words, what I'm saying here is this, the county tax board can do the job and they should do the job. And if we use this ratio as a means of obtaining appeals, then what we're doing is preempting what the county tax board has to say.

ASSEMBLYMAN DICKEY: Mr. Fiore, as I read the Feder versus the City of Passaic Case, as I understood it, the property there was an isolated assessment which seemed to be out of line with the other common level of assessments in the municipality and that it was necessary to go to this common level standard, by the Court, in order to provide a remedy to this taxpayer who seemed to be taxed out of proportion to the properties of similar value. Am I correct in that assessment of the case?

ASSEMBLYMAN FIORE: Right.

ASSEMBLYMAN DICKEY: And your bill then would abolish this rule of evidence. Is that right?

ASSEMBLYMAN FIORE: What I'm saying is this, right, it will abolish this rule of evidence and let the county tax board of the county establish the assessment and through the assessments establish the tax rate. Now what this bill is doing - maybe it was a local problem, Mr. Chairman, but, however, it became statewide. And now many municipalities may use that decision - and when I say "many", I'm talking of many where industrial and commercial buildings are located - to ask for appeals based on the decision that was made in Passaic County. Maybe it was only made with the intention of a single building but the interpretation now is, anyone can go in and ask for appeal based on the ratio, namely your school aid formula. And this is what I'm arguing against because, if this is done, towns like Newark could lose 20%; towns like Teaneck, 74%; towns like West Orange, 74%. The difference I'm talking about 26%, 20%, 26%, and the homeowner will pick up the difference. For example, in

Newark, if we cut it 20%. Now you have to remember one thing here, Mr. Chairman, when we talk about tax law, the homeowner is not familiar with tax law but your industrial and commercial people are. For example, there are probably tax lawyers in this room right now that will be representing big business, or the Chamber may be here. Now, this is their job. A small homeowner does not have this advantage. He probably never heard of the Feder decision, but I guarantee you every big business has heard of the Feder decision. I guarantee you, he would very seldom go for an appeal because he doesn't even know the procedure. But I guarantee you that big business may be up every year on appeals, with their tax lawyers and their accountants, and so forth. And this is what I'm arguing against. Even though, as you stated, it may have been for a single item, it has taken a statewide ramification.

ASSEMBLYMAN DICKEY: Now, isn't this same rule of evidence available to the homeowner as well as to the commercial property owner or the manufacturer?

ASSEMBLYMAN FIORE: I would say no, for the simple reason that the homeowner is not up to date with our laws. As I said before, gentlemen, I'll even go beyond that, - I doubt very much if our State Legislature, as a body of 80, is familiar with the Feder decision, and these are our lawmakers of the State.

ASSEMBLYMAN DICKEY: Any other questions from members of the Committee? (No questions)

Thank you very much, Mr. Fiore.

The next witness listed is Assemblyman Paul Policastro. Is he here? (No response)

All right, the third witness is Mr. Joseph E. Irenas and Lawrence S. Berger of the New Jersey State Bar Association. Would you come forward, gentlemen?

Please state your full name and your association.

L A W R E N C E S. B E R G E R: My name is Lawrence Berger and I am Chairman of the Tax Section of the New Jersey Bar Association; and with me is Mr. Joseph Irenas who is on the Committee.

ASSEMBLYMAN DICKEY: Where is your office, sir?

MR. BERGER: I'm with the law firm of Lasser Lasser Sarokin & Hochman at 17 Academy Street in Newark.

ASSEMBLYMAN DICKEY: Thank you very much. You may proceed.

I would like to begin by reading the resolution passed by the New Jersey Bar Association with regard to the bill:

WHEREAS Assembly Bill No. 2291 was introduced in the New Jersey Assembly on March 22, 1971; and

WHEREAS said Bill has been reviewed and studied by the Section on Taxation of the New Jersey State Bar Association; and

WHEREAS the Section on Taxation finds said Bill has serious and far reaching implications not apparent on the face of the legislation; and

WHEREAS the Section on Taxation believes that said Bill is unconstitutional under the provisions of Article VIII, Section 1, ¶1 of the Constitution of the State of New Jersey and the Fourteenth Amendment of the Constitution of the United States of America in that it would result in denying a remedy to owners of property subject to unconstitutional discriminatory assessments; and

WHEREAS the Section on Taxation further believes that this Bill would undo many years of careful and thoughtful efforts by the courts of this State to fashion a realistic and practical remedy, pursuant to constitutional mandate, to relieve widespread discrimination and inequality among the taxpayers of this State;

NOW, THEREFORE, be it RESOLVED that the New Jersey State Bar Association, on behalf of its members, opposes the passage of Assembly Bill No. 2291.

I would like to break our presentation down into really two sections. One, I would like to discuss what I would term the practical aspects, what it is that's happening out there in the world and what this bill attempts to do. And Mr. Irenas will bring us up to date on what the current law is, tracing back how the law began and where we are today, and, again, indicating what this bill intends to change.

I think the first thing that we can generally agree upon is that if we had two buildings that were identical in all respects - and let's assume that these two buildings are the only two buildings and, therefore, they bear the full tax burden of this town; and let us further assume that the two buildings are each worth $100,000, one building, however, is assessed at $80,000 and the second building is assessed at $120,000. Now the owner of the building with the $120,000 assessment decides that he's tired of bearing more than his fair share of the taxes and he brings an appeal. He is, first of all, entitled to have his property reduced to its fair value, the standard being what a willing buyer would pay a willing seller, so he is, therefore, entitled to bring his assessment from $120,000 down to $100,000, which we've established as the fair value. However, equality has not yet been reached because the first property owner has his building

assessed at $80,000. So the courts have fashioned a remedy which goes beyond the function of true value and says that you're entitled to have your property assessed not at its true value but something below true value, something which is the same standard applied to all other property owners in the municipality. In this case it would be 80% of true value, or both properties would end up being assessed at $80,000 and we would have equality. I'm assuming two identical buildings.

That is basically what's going on. There are some terms in the bill which I think ought to be discussed. One I think is the common level itself or the ratio. What's done is that the State Director, for school aid purposes, and the county, for equalization purposes for the county burden, make studies and the studies compare the sale prices of properties against the assessment. As an example, if a property is assessed for $80,000 and it sells for $100,000, the ratio of sales price to assessment would be 80%.

These studies have been carried on now for approximately 10 years. In some municipalities there are few sales; in some municipalities there are many sales. As an example, in the City of Newark in which, of course, we would expect to find the most sales, for the period 1963 to 1968 there were 23,081 sales. Now the State Director's ratio breaks out what they call nonusable sales from usable sales. Certain sales, if you were going to make a study, would be nonusable, - a sale from a father to a son, or a parent corporation to its subsidiary, an estate sale. There are 21 categories of sales which are eliminated as being nonusable, and one of the categories is a miscellaneous category.

Of those sales, 17,565 sales, over the period '63-68 were deemed usable. The sales are broken down into four classes. The City of Newark had only three classes. The first class is vacant land, the second class is residential,

and the fourth class is miscellaneous, commercial and industrial.

The comparison of sale prices to assessments for those years varied from a low of 16% to a high of 615%. In other words, somebody was assessed at 615% of the amount that his property sold for. Somebody was assessed at only 16% of the amount that his property sold for.

In the classes, as I've pointed out, there are extreme ranges. However, there are certain clusters or certain tendencies that we find. We find that in the class one, the vacant land, the ratio is about 70% of true value; the class two, or residential, is about 60% of true value; and the industrial and commercial property is about 95% of true value. So that we can see by these studies of many, many, many sales that there is an existing discrimination.

What this bill attempts to do is to freeze that existing discrimination exactly where it is. In other words, the shifting that has been spoken of is a shifting toward equality, not a shifting of some burden which is undeserved on the homeowner.

The other ratio or level referred to in the bill is a level which is established by the county boards. Each county board instructs its assessors in the county to assess at a certain percentage of true value. Many counties instruct their assessors to assess at 100% of true value. Many counties instruct their assessors to assess at 50% of true value.

What we have learned from the ratio studies, going back before 1963, is that, contrary to the presumption that's suggested in the bill, no assessor, almost without exception, assesses at the ratio which the county suggested that he's to assess at, or instructs him to assess at.

I could never understand the reason for a county board instructing an assessor to assess at 50% of true

value except for the possible exception of really tricking the public. If you're a homeowner and you have your property assessed at 25% - I'm assuming the uninformed homeowner that we're allegedly talking about - if you have your property assessed at $25,000 and you know in your heart that your property is worth $40,000, you're not inclined to go down and argue with the assessor. And what you don't know is that your property is assessed at 50% of its true value or you're being assessed at an equivalent of $50,000, $10,000 more than you think your property is worth.

Other than that exception, I can't find any reason why the county board should instruct the assessor to assess at anything but 100% true value.

What the bill in effect says is that we are making a presumption that not black is white but green is blue; we are making a presumption that every assessor assesses at the ratio of true value which the county has instructed him to. Now we know, in fact, from the studies, that is never the case.

It further says that there is a remedy, there is a study which was prepared at State expense which was studied over a period of more than ten years, the ratio of assessments to sales prices. And not only are we presuming something which we all know is not so but we're going to deny you, the property owner, the use of this study to prove the fact that what we know is not so, is not so.

I can only equate this to an example, which might be more familiar to you, involving personal injury cases. It's like making a presumption that no one ever gets hurt in an automobile accident, which we all know is untrue, and the reason for presumptions is usually something which is more probably right than not right, - but it makes the assumption first that nobody gets hurt in automobile accidents and, second, denies the use of testimony by

doctors to prove in fact somebody was hurt.

This bill, in the opinion of the Bar Association, is unconstitutional. Mr. Irenas will go into the history of the law.

If you would like to direct questions at this point, I will be glad to answer them, or if you would like to wait until Mr. Irenas concludes.

ASSEMBLYMAN DICKEY: Have you concluded your presentation, Mr. Berger?

MR. BERGER: Yes, I have.

ASSEMBLYMAN DICKEY: All right. I will ask the members of the Committee if they wish to ask questions. Mr. Healey?

ASSEMBLYMAN HEALEY: No questions.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: I will wait until I hear Mr. Irenas.

ASSEMBLYMAN DICKEY: Mr. Fiore?

ASSEMBLYMAN FIORE: Mr. Berger, we're talking in regard to the appeals in regard to the Feder decision, do you feel that this decision will bring in more appeals by commercial and industrial property owners. You mentioned the City of Newark.

MR. BERGER: Yes, I do.

ASSEMBLYMAN FIORE: You do. All right. Now, let's talk about one of the department stores. Do you think they would have received a $1.3 million exemption if the ratio was not applied?

MR. BERGER: I don't know what case you're referring to.

ASSEMBLYMAN FIORE: Bamberger's Department Store. Let's be specific.

MR. BERGER: I'm not aware of the details of that case. I presume from your question that it involves a ratio.

ASSEMBLYMAN FIORE: They received the $1.3 million

based on the ratio. Now there is over $100,000 lost in tax dollars without a change in the budget of the City of Newark.

MR. BERGER: Well, all you are establishing for me is the fact that Bamberger's was apparently over-assessed, not only in terms of true value but in terms of its share of the taxes in comparison to all other property owners in the City of Newark. I see nothing scandalous about the fact that equality has been established by the courts.

ASSEMBLYMAN FIORE: It took them all this time, though, to give them a 15% appeal which they used with the ratio. In other words, nobody was doing their job up to now.

MR. BERGER: Well, I think Mr. Irenas, when he gives you the history of the court cases, will indicate to you that everyone has been doing their job up to now and that it has taken a long time. Justice is a slow process. I think we've reached the point where we are getting some justice and that's what we're here to try to maintain.

ASSEMBLYMAN FIORE: When you say "justice", do you mean commercial and industrial buildings?

MR. BERGER: I mean that every property owner treated alike bears his fair share of the burden of taxation.

ASSEMBLYMAN FIORE: Are you a tax lawyer?

MR. BERGER: I guess I would be called a tax lawyer.

ASSEMBLYMAN FIORE: I assume that. Now, using yourself, could this ratio bring in larger appeals therefore giving you larger fees?

MR. BERGER: Yes, this ratio could possibly bring in more appeals and give me a larger fee. However, I think you could very easily, if your purpose is to keep my income down --

ASSEMBLYMAN FIORE: No, that's not my point but I do think it's special interest.

MR. BERGER: No. I think you could very happily keep my income down and do justice by enacting a bill which is 100% opposite from this bill, instead of, as in this case, not allowing the county boards to use the ratio, if you were in fact to require the county board to use the ratio for everyone, including your beloved homeowner.

ASSEMBLYMAN FIORE: It's not only a beloved home owner, let's say a home owner that is not as informed as are businesses and commercial people through men like you, tax lawyers.

MR. BERGER: I think that's exactly the point. If you passed a bill which provided that the ratio in every case must be applied, you wouldn't need lawyers, like me, to inform clients as to this case because the county board would take care of each individual appellant. I have sat in county board proceedings and have heard a homeowner say, who has, which is usually the case, just recently bought a house, I'm assessed for $40,000 and my neighbor is assessed for $30,000 and his house is much bigger and better than mine. And the question usually from the county board is, what did you pay for your house? the answer is, $50,000. And with the shrug of his shoulders the suggestion is often made to the homeowner that he better pack his tent before his assessment is raised. Now what is happening, of course, is that the ratio of assessment in the municipality is much lower and, therefore, he is in fact being over-assessed. He doesn't know the right words to say and, therefore, he's denied a remedy. If you were to do something which I think is constructive, you would propose a bill which would suggest that the county board must apply the ratio in every single case to everyone, equally, business, homeowner, and everyone alike.

ASSEMBLYMAN FIORE: May I ask you this question? When you spoke about 23,000 sales, what percentage made up transactions of homes? Have you any idea? You said, 23,081 sales, now do you have any idea of the percentage of homes that were sold that this was based on?

MR. IRENAS: For the year 1964, which I have in front of me, there were sales of 1,530 homes; in 1965, 1,517; in 1966, 1,447.

ASSEMBLYMAN FIORE: All right. Now, you base your sales then in regard to these homes. Is that right? The ratio, I'm talking about, in regard to the assessment and the sale.

MR. BERGER: The ratio is on sales in all classifications.

ASSEMBLYMAN FIORE: Now, let's take one of our big buildings in Newark. When was the last time that was sold we'll say for $15 million, $20 million, $25 million. How do you think a building, like Mutual Benefit or any other building, can come in with an assessment on that. I don't know if any building of that type has been sold in Newark; or are we working on small homes here?

MR. IRENAS: Are you asking a question as to whether there has been a building of that size sold recently in Newark?

ASSEMBLYMAN FIORE: Yes.

MR. IRENAS: Well, I could take one, the old Kresge store which is now the Two Guys building, was just sold very recently.

ASSEMBLYMAN FIORE: Well, that was built a few years back.

MR. IRENAS: Well, you asked if there had been a recent sale in that category. I happen to know that that one has been sold.

ASSEMBLYMAN FIORE: Let me ask you this then. How do you assess a building like Mutual Benefit? Who do you compare it with?

MR. IRENAS: Mutual Benefit is under Fox-Lance anyhow, so I suspect that any of the newer buildings, such as 550 Broad Street, Mutual Benefit, and newer buildings that are going up are under the Fox-Lance law or similar law. They are excluded altogether from this type of study because there is special tax treatment, tax abatement, given to these types of buildings. So to use the example you gave, it's impossible to give an answer.

ASSEMBLYMAN FIORE: Thank you.

One other question. You spoke about the homeowner coming in with a house he may sell for $50,000 but it's assessed for $30,000 so he says nothing; now a big building goes in for appeal. Do they ever tell how much income they make? I am talking now about the buildings that we assess; they're assessed; they're assessed the same way homeowners are assessed, I'll assume, but nobody ever discusses all the income that comes out of these buildings that are located in these cities. But you did mention how an individual who may have a $30,000 house sells it for $50,000 so he keeps quiet.

MR. BERGER: Well, there are three approaches to value that the county board and the Division of Tax Appeals and, ultimately, the courts will listen to. The first approach involves comparable sales; the second approach involves reproduction cost less depreciation; and the third approach is an income approach. Usually when commercial-industrial properties are being appealed, all three approaches to value are presented to the county board or Division or the courts, and the full amount of income, or fair rental value of the building, regardless of size of the building, is presented to the body almost always in the form of a written appraisal. So that there is no secrecy as to the rental value of the property. Usually that's the grounds upon which most appeals are successful because the assessor has taken a

reproduction cost less depreciation, which has its problems, and has overlooked the income. And that testimony is almost always given to the county board of tax appeals.

ASSEMBLYMAN FIORE: Now also, gentlemen, you said this bill may be unconstitutional. Have you sat down with the Supreme Court or did you people, in the room, decide this as lawyers?

MR. BERGER: I think, if you will give Mr. Irenas a chance, he can explain to you our reasons for believing it's unconstitutional. The Bar Association has no power to declare a bill unconstitutional and we are here just to give our opinion of what we think.

ASSEMBLYMAN FIORI: Thank you.

ASSEMBLYMAN DICKEY: Thank you, Mr. Berger.

I want to make it clear that tax lawyers are very welcome, sir. You have the same civil rights as other citizens.

Mr. Enos?

ASSEMBLYMAN ENOS: Mr. Chairman, I would like to ask a question or two of Mr. Berger.

Mr. Berger, did I understand you to say that the equalization table determined by the Director of the Division of Taxation for State School Aid distribution should be made mandatory for use in the determination of these ratios?

MR. BERGER: Well, this is not the opinion of the Bar Association now, and I have no authority, but what I'm suggesting to you is, if we wanted to solve the problem of inequal taxation among people within the same class - and by class I mean commercial, industrial, residential - we would be doing a great first step by requiring that. That is not the opinion of the Bar Association. I don't know what their opinion might be. That's my own opinion, I think the opinion of Mr. Irenas also.

Such a suggestion was made in the Kents Case and that ratio was, in fact, used for personal property tax purposes for a number of years. It's my opinion that that would go a long way to solving a lot of problems.

ASSEMBLYMAN ENOS: Now, as I understood you just then to say that this is your personal opinion and the opinion you just expressed is not the opinion of the New Jersey State Bar Association, is that correct?

MR. BERGER: Yes, as to this last point with regard to compulsory use of the ratio before the county board or before the Division. My first remarks I believe are the opinion of the Bar Association.

ASSEMBLYMAN ENOS: And may I ask you, please, sir, are you here to express the opinions of the New Jersey State Bar Association with respect to this particular bill, Assembly Bill No. 2291, or are you intermingling your own personal opinions with the opinions of the State Bar Association?

MR. BERGER: I think I fairly presented the views of the Bar Association. However, a question was asked of me and I gave the answer which I thought was an accurate answer.

ASSEMBLYMAN ENOS: Will you answer my question, please. Are you here representing --

MR. BERGER: I am here representing the --

ASSEMBLYMAN ENOS: Excuse me.

MR. BERGER: I'm sorry.

ASSEMBLYMAN ENOS: Are you here representing -- it makes a difference to me because I'm a member of the Bar Association. Now, are you presenting, this morning, your own personal opinions on the unconstitutionality of this proposed legislation or are you representing the opinion of the Bar Association? That's a very simple question. Either you are or you're not.

MR. BERGER: I am here representing the view of the Bar Association.

ASSEMBLYMAN ENOS: But the expression that you just made about the Director of the Division of Taxation is a personal opinion. Is that correct?

MR. BERGER: That's correct.

ASSEMBLYMAN ENOS: Thank you.

ASSEMBLYMAN DICKEY: Any other questions from the members of the Committee? (No questions)

Mr. Irenas.

J O S E P H E. I R E N A S: It has always been constitutionally required that all property be assessed according to the same standard of value. That expression "same standard of value" appears in the present New Jersey Constitution, Article VIII, Section 1, paragraph 1. And I believe that has always been the law even before this Constitution. It's also probably required by the Federal Constitution as well.

Notwithstanding that this is the case, that all property is to be assessed at the same standard of value, which includes homes, commercial property, vacant land, - notwithstanding this requirement, it has been a sad fact, at least over the last hundred years, that this just was not done. Why this is so? Sometimes out of malice; more often probably just out of the difficulty of administering this system, we found that properties were assessed all over the lot, some were assessed at far more than true value, many assessed far under true value. You heard the figures that in one city in one year, you have one property at one-sixth of its true value and another one assessed six times its true value.

Now this has always been recognized and, of course, aggrieved taxpayers have gone to the courts in an effort to solve that problem.

Now, what this bill, A-2291, attempts to do is, in the guise of a rule of evidence, set the clock back I will say 62 years. And I will tell you why I picked that figure. In 1908 an aggrieved taxpayer went to the courts of New

Jersey because he felt he was discriminated against and the court, in that case, held what this bill would do. It says, well you can be assessed at 100%, but that's all you're going to get; even if everybody else in the town is assessed at 20%, you're still going to be assessed at 100% because the assessor says he's assessing at 100%. That case, just for the record, is the Royal Manufacturing Company Case. It was a landmark case.

New Jersey lived with that and what became known throughout the Nation, I think somewhat mockingly, as "tax Lightning", which was an expression used throughout the State to indicate the haphazard nature of New Jersey taxation. And the reason why it was haphazard was because there was a lack of remedy. What you had was a right under the Constitution but no remedy to effectuate that right.

Now that case languished on the books until 1946 when the Hillsboro Township Case finally went to the United States Supreme Court. In that case, the United States Supreme Court said what it has always said over the years, no matter who was sitting on the Court, that a right without a remedy is meaningless; and to say that somebody cannot be discriminated against but then deny them the right to have that discrimination alleviated would be to make the right nugatory. And in that case it said that the taxpayer did have the right to have his assessment lowered, and lowered below true value if it was necessary to equalize him with other taxpayers.

But that was a statement of principle. It stills remains, how do you effectuate that principle? From 1946 through 1961, which I guess is a period of 15 years, the courts of New Jersey wrestled with the problem. All right, we now have to fashion a remedy. How are we going to fashion that remedy? Now what are the alternatives?

Let's take the City of Newark, for instance. I'm a

taxpayer there and I have just gotten this decision from the United States Supreme Court. So the first taxpayer was very clever. He said, I'll look around town and I'll find the most underassessed property I can find, I'll find one that's assessed at 2% of true value and I'll go to the court and say, now I want to be assessed just like him. And the courts, quite rightly, in New Jersey say, you can't do that, that would create chaos; you can't go around looking for the most underassessed property in the town and get yours lowered down to that because in a town with 50,000 properties if there was one property inadvertently assessed very, very low, everybody would come down. So the court said, no, you can't do that, you can't pick one or two very low properties and ask to be assessed at the same percentage.

Then the taxpayer is faced with a problem. Now we are worried about the cost of appeals and the cost of legal fees and the cost of appraiser fees. The taxpayer says, what do I have to do? do I have to go out and find 100 properties and hire an appraiser to appraise each one of them and bring in this mountain of testimony in a court? that would be unfair.

Fortunately, right about the turn of 1960, New Jersey created, for completely unrelated purposes, we admit, the State Director studies for the purpose of distributing school aid and for county government purposes, to determine what each municipality had to pay. It's important for us to look at why that legislation was passed.

Now the people here in the State are giving out millions and millions of dollars supposedly based on assessments. This Legislature, sitting right here in this room, recognized that the assessors were not doing their job. They recognized it. They made a policy finding and they said, for us to rely on

actual assessments would be a disaster, it would result in rank unfairness; towns would be receiving money for educational purposes with no real relation to the value of property in this town. So they authorized the making of these studies in which sales were compared to assessed value and use it for the purpose of distributing State Aid.

I think it's somewhat ironic that the State of New Jersey, in distributing its millions of dollars, would say, we can't rely on the assessors, we have to use this to achieve fairness, and then turn around and say to the property owner, well, what's fair for the State of New Jersey is not fair for you. I think it leads to a rather ironic result.

But in any case, after many attempts at using this ratio in tax appeals, the case about which we are all talking is not really the Feder Case, it's the Kents Case, the in re appeal of Kents, which is, after all, what this bill is all about and what we're talking about that it's all about. In that case the court said, as we all know, that where the studies done by the State Director show, for instance, the property in a town is being assessed on an average of 80%, 70% of true value, it would be unfair to assess an individual taxpayer at 100% and, therefore, that percentage, that ratio, should be used to grant relief.

Now, two points should be brought out. First of all, that is hardly complete relief to the taxpayer. If you have a ratio of 80%, it may well be that some properties are 50% and others are at 100%. So that even if a taxpayer gets his taxes reduced to the common ratio, he's still being discriminated against with respect to many other properties which are below that ratio. But the court said, we cannot have mathematical precision, we have to do something to grant relief and this is the best possible.

Secondly, the Chief Justice in that case was quite clear that using the ratio was no substitute for good assessment practice. He recognized that it was a temporary and transient sort of relief designed to deal with a particular inequity.

I don't think there is anybody in this room, no matter what position you're taking, who doesn't recognize that the real solution here is proper assessment practices which would relieve the need for any appeal. This is not the be-all or end-all of tax law; there are many problems to be solved. We just have to look at this in context, which is immediate relief for immediate inequity.

Now, I think a word ought to be said about how this ratio works. When Representative Fiori spoke, he indicated that because Newark's ratio was 80% that we would suddenly apply 80% to all the assessed values in town and cut down the assessments accordingly. I respect his opinion but I would suspect the loss in assessment would be a mere fraction of that. And I will tell you, of course, why.

If the ratio was 80%, there are a large volume of properties assessed at less than 80%. Now these properties certainly can't come in and appeal to get a reduction because they're already below the ratio. So to the extent that the ratio is involved with properties below that, certainly their assessments aren't going to be cut.

Now the mechanics of the appeal just ought to be stated briefly. One does not just walk in with his assessment - let's say he's assessed at $100,000 - and say, I now want it reduced to $80,000 because of 80%. The taxpayer must first prove true value. Now let's take an example of an assessment of $100,000 in Newark where there's an 80% ratio applied. I go into Court and present my evidence. If a Court should in fact find that my property is really worth $120,000,you take 80%

of that and you're still with a higher figure than the assessment. What I am getting at is, the very fact that we have this ratio shows that most properties are under-assessed, at least a large number of them are. These people would get no relief from this because when the Court found true value it would be much higher than the assessment and even applying the ratio you would get nothing.

I think another point bears bringing out, and I suppose I'm stepping into the lion's den when one talks about the homeowner but I am one too and I pay the tax bill and I know the problem.

The thrust of what Mr. Fiori is doing - and to the extent that he's concerned with the homeowner, I think it's a laudable concern and one which we should all be thankful for -- but to the extent that he talks about the homeowner, what he's saying is - I admit that home-owners are underassessed, and I'm coming right out and saying it because it is a fact that in many towns there is a deliberate underassessment of homes. In Hudson County, recently, where there is a revaluation, this came out very clearly that there was either a conscious or unconscious effort by the assessor to assess homes at less than true value, at a lower standard than commercial property.

However laudable - I won't use the word "laudable" - however well that may be for the homeowner, it's on its face unconstitutional. And I was always raised to believe that two wrongs never made a right. I was also raised to believe that you could find solutions to problems if you looked for them. But solutions of literally freezing this discrimination by this bill, to solve the homeowner's problems, I think has to be doomed to failure, as every attempt to solve one wrong with another wrong is.

Another point bears attention here, though. The assumption in Mr. Fiori's bill is that the homeowner is

the beneficiary of the current practice because obviously the homeowners who are being overassessed would want this bill because it would cut their assessment down. So we have to assume that the very premise of this bill is that throughout the State homeowners are underassessed. The premise may be true in many areas but it need not be always true. I think this Committee ought to be concerned possibly with other situations. What about a business coming into a town which works a deal where it gets a very low assessment at the expense of the homeowners, which this bill would freeze and prevent other homeowners from getting relief. In other words, I don't think we ought to always work with the assumption that this bill will always work in favor of the homeowner. It will work in favor of the homeowner if he's the beneficiary of an unconstitutional discrimination in assessment. But I know of cases, and I think members of this Committee probably also do, where it's industry that's underassessed, and it's the homeowners who are overassessed. And I tend to think this is more true in the more rural parts of the State where you have one or two or three industries in a town and lots of homes. So I don't think we ought to jump immediately at the premise of this bill, that only the homeowners are beneficiaries of sloppy assessor practice; businesses can be beneficiaries too. And although there are people here representing all types of groups, I think we ought to be very concerned with that; we ought to be concerned with any bill which freezes an unconstitutional and a discriminatory assessment.

Another point that ought to be made, and I think it bears repeating, it was hinted at already, is that even in towns, particularly in the urban part, where this bill could be construed to help homeowners because it would freeze the discrimination in their favor, it may be a transitory benefit. We know that industry is leaving

the urban areas. I know, from my own experience in Newark, that industries are either leaving or on the verge of leaving or the property is being downgraded because the tax burden is so high. And I wonder whether that works to the benefit of the homeowner or anybody else in a town.

Now the specific example of Bambergers was mentioned. Although I wasn't involved in that case, I understand, in fact, that Bambergers, that store, is the least profitable in the whole Bambergers chain. And it well may be that that store is on the verge - I don't know, I haven't spoken to anybody there, but you hear things and it well may be that it's on the verge of moving out. Now it may be that because they've just recently won a case and got their assessment reduced to the common level, if that's the fact, - I don't know the facts of that case - if that is a fact, that may save a landmark in Newark; it may provide thousands of jobs for all people of all levels, both white collared, disadvantaged segments of the Newark society, plus keeping a great commercial center in Newark. And I think we have to look at the whole picture before we decide that, as a matter of policy, we will freeze what now exists by way of discriminatory assessments.

That's really the brunt of my presentation and I will answer any specific questions that anybody has. I suppose I should answer, before it's asked, what kind of practice I have. I practice with McCarter & English in Newark, which is a general practice. I would say, at most, 5% of my practice deals with taxes of any kind, which includes this type of work and any other type of taxes. The other 95% is in other areas of the law. To what extent that has any bearing, I offer it to the Committee.

ASSEMBLYMAN DICKEY: Thank you, Mr. Irenas.

Mr. Healey, do you have any questions?

ASSEMBLYMAN HEALEY: No.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: Mr. Chairman, I would like to ask a few questions of Mr. Irenas.

Mr. Irenas, I understand from your testimony that you favor the Director of the Division of Taxation equalization table for State School Aid distribution. Is that correct? You favor the equalization table - that's the way I know it - the equalization table for that purpose.

MR. IRENAS: I understand you, sir. I favor it - when I say "I", the State Bar Association. To anticipate a question, I am speaking here - the position I have set forth is, to the best of my understanding, the position of the State Bar Association. I made a similar presentation to the Trustees of the State Bar Association, who were over 20 in number, and to that extent I believe I am speaking for the Bar. I also happen to agree with it personally but I have limited my comments to what I believe to be the Bar's position.

Now, in answer to your question, I favor the use of the State Director's table in the manner and in the way that it has been used by the Supreme Court of New Jersey and the other Courts of the State under its direction.

I think you bring up a point that ought to be mentioned here. It is not absolute. A taxpayer just doesn't go in and present the figure and that's the end of the case. The town is open to show that the ratio is unfair for some reason, it doesn't include enough sales, that other years should be used; it's not an absolute figure. But I do favor its use to the extent that the Courts have presently permitted its use.

ASSEMBLYMAN ENOS: Yes, sir. In view of the statement that was just made concerning the position of the State Bar Association, and, as I say, I'm a member of the State Bar Association and I'm definitely interested

in whether or not - this is the question: Did the State Bar Association ever formally adopt the statements which you and Mr. Berger are making here to the Committee this morning?

MR. BERGER: Well, as Mr. Irenas said, he made a presentation in substantially identical form - and we might have changed an adjective now and then - to the Bar Association where I presented exactly what I presented here today, and Mr. Irenas presented what he has presented here today. There was a vote, a resolution, which I read to you at the outset of my presentation, was adopted. If the Trustees of the Bar Association represent the members of the Bar Association, then I think that the Bar Association has spoken as to its position.

MR. IRENAS: I don't remember, sir, whether you were here at the very outset when this resolution was read.

ASSEMBLYMAN ENOS: I missed it by seven minutes.

MR. IRENAS: Then I think that answers your question. The very first thing that was done here was the reading of a resolution. And, if the Chairman permits me, I think maybe I better read it again because I think the full Committee --

ASSEMBLYMAN ENOS: Is it going to be a part of the record?

MR. IRENAS: Yes.

ASSEMBLYMAN ENOS: It won't be necessary to read it then.

ASSEMBLYMAN DICKEY: We already have it in the record.

MR. IRENAS: Well, it's in the record but the substance of what we have said here is embodied in this resolution, which is on the record, and that was adopted.

ASSEMBLYMAN DICKEY: Do you have a copy for us?

MR. IRENAS: I am told that we do have a copy here.

ASSEMBLYMAN DICKEY: Would you give one to Mr.

Enos, please.

ASSEMBLYMAN ENOS: May I continue please, sir?

ASSEMBLYMAN DICKEY: Go ahead.

ASSEMBLYMAN ENOS: Now I'm going to call this the equalization table. Mr. Irenas, was that, to your knowledge, adopted or under legislation composed for the purpose of State School Aid Distribution only? Was that the primary function and purpose of that equalization table?

MR. IRENAS: Yes.

ASSEMBLYMAN ENOS: Now, in your opinion, is that table equitably - and I underline "equitably" - adaptable for all purposes, including the present purpose?

MR. IRENAS: Well, when you say "all purposes", I don't know what other purposes you have in mind.

ASSEMBLYMAN ENOS: Well, let's say limited specifically to this particular purpose. In your opinion, is this equalization table equitably adaptable for the purpose of determining the proper assessed valuation before the County Tax Boards?

MR. IRENAS: Your use of the word "equitable" is a good one and it's one that I strongly agree with. I believe the table and the studies underlying the table, which are very extensive, provide an equitable basis for providing relief to taxpayers who have suffered discriminatory assessments. I add, as I stated before, that a lawyer is always wary of speaking in absolutes. In rural townships where there may be one or two sales in a year, or three sales, the use of those figures might well be distorted, in which case you might want to go back for five years or you might want to throw it out altogether. The courts have never said that this is absolute in every case. What they've said is that it's a basis to start from and the townships and the assessors are free to show that it's unfair.

I might add, and I am glad you brought this up

because I think both of us forgot it, every township has the right to appeal that table. In other words, the table is promulgated for 1971, let's say, I believe in October of 1970, the town can then appeal that figure, that ratio to the county board and up through the Appellate Division if it believes it is unrealistic. They can use all the grounds I've talked about. It can say there are not enough sales, that so-called non-usable sales were included erroneously in the ratio, at-arms-length sales, or something like that, and the township has it within its power - I say "township", the municipality has it within its power, before there is any appeal pending, to correct that. And I know of one case down in the farming part of the State, where I was involved, where the township did that and the ratio came out at 50%. They went to appeal and got it raised up to 80% because the State - I won't say made a mistake, but they showed that it was an inequitable figure. So I am not suggesting that what the State Director hands down is a holy writ and that everyone has to follow it. Not only does the town have recourse on its own but in any individual appeal the town can likewise show that it should not be applied. The courts have never said that it shouldn't.

ASSEMBLYMAN ENOS: My question is not a philosophical question. I have a particular problem which existed a year or two back in a small municipality where the sale of one gas station made a tremendous advantage for Greenwich Township, specifically, and hurt the other 22 municipalities in my County of Gloucester. And I have a fear, an absolute fear, that such things can happen, not only in Gloucester County but they're happening around the State because the members of the county boards of taxation are likely to believe that the people who make the examinations of the county records and determine what the ratio is - and that's the basis for the Director's

determination on his table - that they're infallible. And I know some of them and, in my opinion, the employees of the State are not infallible. That's what bothers me.

MR. IRENAS: I would have to agree with you that the townships, not only for tax appeal purposes but for what you're talking about, bearing county government cost, the townships have to be diligent to see that the State Director does his job. And all I can say to your very real concern is that there are avenues open for anybody aggrieved, be it a township or a taxpayer or a municipality aggrieved by the Director's findings, to appeal that and get heard quickly on it. And I agree with you that nobody should accept the raw data as it comes out or the figure that comes out as infallible. And we have to be on guard, particularly the townships and municipalities have to be on guard to exercise their rights of appeal when they have been mistreated inadvertently by the State Director. I agree with everything you just said.

ASSEMBLYMAN ENOS: There is one other thing, just one, and that is -- this has been mentioned before but I would like to make a statement for the record, and that is simply this, that it's true in my county, and I represent two counties, both small counties, population-wise, and we have a great rural population and we have great numbers, in comparison to the industry, -- great numbers of private homes, and in a lot of cases my people don't know anything about tax appeals and in a great many cases they can't afford to take tax appeals not due to the fact that it costs them a dollar or two to file the application for the appeal but because they can't afford to take time off from work. And that's another consideration that I have to be convinced on, as to how it can be done expeditiously and without too much expense, if we would ever come to the point where this equalization

table would be rammed down our throats.

MR. IRENAS: Sir, could I comment on that briefly?

ASSEMBLYMAN ENOS: Yes, sir.

MR. IRENAS: Personally, I see what you're talking about. I've had the occasion to represent small property owners on appeals and I know the problem where you're dealing with a person with limited funds and where limited amounts of taxes are involved. I would suggest to you, however, that by eliminating the use of the common level - excuse me, the State Director's table as a tool of appeals, you will increase the cost of appeals; you'll make lots of money for lawyers and you'll make lots of money for real estate assessors because what you will have to do then, I suppose, I don't think anybody has thought about it, is go out and hire an appraiser to appraise fifty or a hundred properties, prepare a very complicated case.

Now, in 1961, I am told by the Kents Case that there was a bill before this body which, rather than eliminating the use of the State Director's ratio, would have made it mandatory. I think this is what Mr. Berger was referring to. It was Senate 2 in 1961, I believe. And they were thinking of using, I believe, an unweighted ratio of some kind, it wasn't exactly the Director's ratio. I certainly think this Committee ought to explore relief along that line so that when a taxpayer or a homeowner walks in he doesn't have to know the law, the county board will automatically apply some sort of relief, they will be statutorily mandated to supply relief so that they won't face the situation I faced in one county when I walked in with a widow with a small piece of property who was very unfairly assessed and I was told, we're not even going to hear you about the State Director's table, just give us testimony on true value. Now, in that situation, we were somewhat helpless although, ironically, the board, knowing the unfairness that existed, lowered

the assessment anyhow. But if they were mandated to provide some sort of relief to a homeowner or any property owner, we would solve, I believe, the very point that has just been raised.

I don't know and I don't want to even represent that the use of the State Director's ratio is the only way of achieving that, but I agree that this Committee should definitely explore ways to make the appeal procedure simpler and more effective. And this has to be done by setting standards for the county boards which they will apply so that there won't be the situation that this widow faced where, if she had gone in alone, without an attorney, she would have just been thrown out; but, fortunately, we were able to help her and she had legal advice. The board knew that I would take an appeal and they knew that I knew the law and granted us relief. While in the case that Mr. Berger was talking about, where the homeowner comes in unrepresented, the county board literally deceives the homeowner, it doesn't tell him that he has this right under the law. And I think that's the type of legislation this Committee might look into if it has the occasion.

ASSEMBLYMAN DICKEY: Any other questions of Mr. Irenas?

ASSEMBLYMAN ENOS: No, thank you.

ASSEMBLYMAN DICKEY: Mr. Fiore?

MR. FIORE: Mr. Berger, getting back to the sale of that department store, I believe you mentioned with regard to three approaches - one was a common sale; reproduction; and what was the other one?

MR. BERGER: The three approaches are; comparable sales, that is the sales of other properties; reproduction cost less depreciation; and the third was income approach, where you capitalize the income or the rental value of the property to determine its value.

ASSEMBLYMAN FIORE: All right. Now, in determining Bambergers, they determined it on the thought Bambergers had a low income? Now this was stated that it was one of the lowest income of the stores that Bambergers had in the area. Now, can I assume that this is why the appeal was given?

MR. BERGER: Actually, you're touching on an extremely complicated area and that area is the determination of values. What they did, I presume, in that case, and I don't know the details, was they capitalized the rental value of the property - real estate has a rental value in the market - and they established, based on the rental value of the property, what its worth was. I don't know the specific details but if they used the income approach that's what I assume they did.

ASSEMBLYMAN FIORE: Could the ratio have been used there to determine that appeal also?

MR. BERGER: Well, once you determine what the value of the property is, what the ture value, 100% of worth, is, if a ratio is applicable, presumably they would apply the ratio. Now, in that particular case I didn't hear of the use of the ratio. I would be inclined to guess, if I had to guess, that a ratio wasn't used. As you called me, I am a tax lawyer. If the ratio were used in that case I am inclined --

ASSEMBLYMAN FIORE: I didn't tell you, you told me. I asked you.

MR. BERGER: Oh. I don't know whether a ratio was used in that case or not but first they would find true value. If a ratio were applicable, the court might apply the ratio.

ASSEMBLYMAN FIORE: All right.

MR. IRENAS: I happen to know or I believe know the appraiser who handled that case and my recollection is, although it's only my recollection, that that case was

tried on value and not on the ratio. But again that's my recollection of what he told me. I don't know the details.

ASSEMBLYMAN FIORE: All right. You mentioned Fox-Lance before. Are there any benefits by any company that comes under the Fox-Lance, as compared to an assessor going out and assessing the home? Are there any benefits under the Fox-Lance approach than there would be under --

MR. BERGER: Yes, I think there would be benefits under Fox-Lance. I presume that was the reason the Legislature enacted the Fox-Lance legislation for the purpose of attracting industry buildings, etc. into urban areas. And I believe in most instances you could say that there would be a benefit from the Fox-Lance, otherwise it wouldn't have been enacted in the first place.

ASSEMBLYMAN FIORE: All right. Now, when you say a benefit in regard to assessment also - in other words, if you took two approaches, Fox-Lance would be a cheaper approach, a much cheaper approach.

MR. BERGER: If you're suggesting that the taxes paid under Fox-Lance are less than paid without Fox-Lance, I would say you're absolutely correct.

ASSEMBLYMAN FIORE: All right, then let me say this. Could these companies, under Fox-Lance, also come in on appeals using the ratio?

MR. BERGER: No, it's a totally different procedure.

ASSEMBLYMAN FIORE: Thank you.

ASSEMBLYMAN DICKEY: Thank you very much, Mr. Berger and Mr. Irenas.

Assemblyman Policastro is the next witness.

P A U L P O L I C A S T R O: Chairman Dickey and members of the Assembly Taxation Committee. I do not think I have to identify myself to you but, for the sake of the record, I will. My name is Paul Policastro and I am an Assemblyman representing District 11A which is comprised of a portion of the City of Newark.

I would like to thank the committee for giving me the opportunity to speak in favor of Assembly Bill Number 2291 of which I am a co-sponsor.

My reason for co-sponsoring this bill is quite simple. I want to prevent the homeowners in this state from having forced upon them sizeable and unreasonable increases in their property taxes due to unwarranted reductions in the assessments on commercial and industrial properties. You undoubtedly want to know how this shift in tax burden is happening, so I will try to explain it to you briefly.

I do not think I have to remind you of the importance of the property tax in the state's tax structure, or that New Jersey relies more heavily in the property tax to finance governmental services than just about every other state with the possible exception of one or two. Yet, the administration of the property in this state, as in all others, suffered from inequitable and and nonuniform administration throughout most of its history, with the laws governing its administration observed more in the breach. With prompting from decisions of the United States Supreme Court, our state courts began to hand down decisions aimed at overcoming some of the inequitable features in the administration of the property tax. These decisions established that the primary and guiding principle of property taxation under both the U.S. Constitution and the State Constitution and statutes is equality and uniformity of treatment and burden

among all taxpayers, and that this principle must prevail over the statutory standard for assessment if necessary to avoid discrimination.

The Legislature also took part in the quest for more equitable administration of the property tax. It included an equalization formula in the state school aid law in 1954 and directed the director of the division of taxation to establish equalization tables based upon sales-assessment ratio data for use in the formula. The Legislature also authorized the assessment of real property at a percentage level of true value established by the county boards of taxation to assist taxing districts to meet the uniformity and equality principle recognized by the courts without going to complete true value assessment as mandated by the state supreme court.

Despite these and other changes aimed at improving property tax administration, the most difficult problem, obtaining uniformity and equality among the tax assessments in a single district, still remained to be solved. Most authorities including several court decisions recognized and stated that sales-assessment ratios were not adequate to bring about uniformity and equality among tax assessments in a single taxing district. The only sound remedy to bring about such uniformity and equality was recognized to be revaluation.

Unfortunately, the courts did not stop in their search for a remedy for individual cases of alleged discrimination.

In Gibraltar Corrugated Paper Co. v. North Bergen Tp., 20 N.J. 213 (1955), the state supreme court ruled that the division of tax appeals could remedy discriminatory assessments by reduction to the common level of assessment in a taxing district. Taking the remedy a step further, in In re Kents, 34 N.J. 21 (1961), the court held that where there is no common level at which real property is assessed in a taxing district, the division of tax appeals may use the average ratio determined by the director of the division of taxation for the purpose of apportioning state school aid as evidence of a ratio to which a substantial discriminatory assessment should be reduced. Only two years ago, this remedy was extened even further to the extent where it threatens serious dislocation in local finance. In Feder v. Passaic, 105 N.J. Super. 157 (App. Div. 1969), it was held that in cases of discrimatory property tax assessment where there is no common level at which real property is assessed in a taxing district, an aggrieved taxpayer is entitled to a reduction in his assessment from true value to the average ratio determined by the director of taxation.

This decision has opened the floodgates to tax appeals by the owners of commercial and industrial property throughout the state. My colleague and prime sponsor of A-2291, Assemblyman Fiore, has brought to my attention one example where the average ratio was used to provide a $1,284,075

reduction in the assessment on one department store in the City of Newark, resulting in a $101,000 tax reduction on the property. He has further advised me that there are between 700 to 900 appeals by taxpayers in Newark pending before the division of tax appeals. Most if not all of these appeals are in commercial and industrial properties whose owners can afford to pay for legal counsel to obtain assessment reductions according to precise, judicial remedies in an area which does not admit such precision. The average homeowner in a city like Newark is undoubtedly unaware of these court decisions but he is in danger of having his tax burden significantly increased as commercial and industrial property owners win reductions in their assessments.

Assessing real property for tax purposes is not an exact science. This has been recognized by all authorities and even courts. As I indicated above, the state supreme court has even stated that sales-assessment ratios are not adequate for revaluation of real property in a taxing district to achieve uniformity. Complete revaluation by experts is the only adequate way to achieve such uniformity. Yet, the state courts have fashioned a precise and mechanical remedy for alleged discriminatory assessment, namely, reduction to the average ratio established by the director of taxation. This remedy could lead to revaluation of much of the commercial and industrial property in the state by way of tax appeals.

The average ratio of the director of the division

was authorized and mandated for the purpose of apportioning state school aid. It was never authorized or intended to be used as a remedy for discriminatory assessments. The director's ratio has other features which add to its inappropriateness as a remedy for discriminatory assessments. There is a six-month lag period between the time period from which sales are used and the year to which the ratio is applied. Sales in prior years are also used to provide a sample of sufficient size. In municipalities where property values are decreasing, like the City of Newark, this method of computing the average ratio produces a lower ratio than it would be if more current sales were used. Additionally, sales of houses under various federal programs are often inflated and their use in determing the average ratio gives a distorted result.

Assessing commercial and industrial property itself is less exact than the other classes of taxable property. Many complicated factors are involved and expert appraisers often disagree widely as to the value of such property. Yet, it is primarily this class of property which has been afforded the precise and mechanical remedy of the director's ratio to correct alleged discriminatory assessments.

Assembly Bill Number 2291 would attempt to prevent the threatened wholesale revaluation of much of the commercial and industrial property in the state by prohibiting the use as evidence of the director's ratio, or the average ratio established by the county boards of taxation for the purpose of apportioning county taxes, in tax appeal cases.

Its purpose is to prevent the mechanical use of an inadequate remedy to bring about uniformity among assessments in a taxing district. Do not be mislead by its alleged use only in individual cases to correct discriminatory assessments. When the individual appeals run into the hundreds and thousands, the result is significant revaluation within a taxing district. The solution for greater equality and uniformity in property tax assessments is to help taxing districts obtain the revaluations it is conceded are necessary. Perhaps the bill which is the subject of the hearing this afternoon, A-2443, which would provide for county boards of revaluation, is one solution. I am not familiar enough with the bill to say whether it is or not.

I do know that we cannot allow the use of the director's ratio in tax appeals to continue as at present. All the supposed benefits that have been provided for the City of Newark by way of state aid and authorization for various nonproperty taxes will be for naught if we allow the city's property tax base to be destroyed. Continue to seek ways to improve property tax administration and to obtain greater uniformity in property tax assessments, but do not allow the homeowners of this state to be scuddled with higher property taxes by unwarranted and unreasonable reductions in the assessments on commercial and industrial properties. I hope the committee will release this bill so that it can be acted upon when the Legislature returns in session.

ASSEMBLYMAN DICKEY: Thank you, Assemblyman.

Any questions, Mr. Healey?

ASSEMBLYMAN HEALEY: No, thank you.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: Do you have a copy of that available, Mr. Policastro, for the Committee?

ASSEMBLYMAN POLICASTRO: One copy.

ASSEMBLYMAN ENOS: All right. Thank you.

ASSEMBLYMAN DICKEY: Mr. Fiore, any questions?

ASSEMBLYMAN FIORE: No.

ASSEMBLYMAN DICKEY: Thank you very much, Assemblyman.

The next witness is Mr. John Kerr, President, New Jersey Taxpayers Association.

J O H N K E R R, J R.: Gentlemen, my name is John Kerr, Jr. I am President of the New Jersey Taxpayers Association which is a non-profit, non-partisan governmental research organization founded in 1930 with the purpose of working for efficient, economical government.

The New Jersey Taxpayers Association announced its opposition to Assembly Bill No. 2291 in a letter to all members of the General Assembly on April 14 of this year, following its introduction and advance to second reading without committee reference. We recommended then that a hearing be held on the bill in order to bring out publicly reasons the sponsors considered the bill necessary and desirable. We wish to commend you for scheduling this hearing so that all those interested in the measure may present their opinions thereon.

The interest of the New Jersey Taxpayers Association in effective property tax administration spans several decades. I shall not take the time to recite the Associations efforts to improve property tax administration for you today, although there is extensive historical material available to demonstrate our background in this important area.

Our opposition to Assembly No. 2291 is based on the fact that by denying an appellant the right to use either --

1. the average ratio of assessed to true value of property in a taxing district determined by the Director of Taxation for computing true value in the formula for distribution of State school aid, or

2. the equalization ratio fixed by the county tax board for apportionment of county taxes (column 8, Annual County Abstract of Ratables), as admissible evidence of a common level at which real property is generally assessed in the taxing district, and to which an alleged discriminatory assessed valuation should be reduced, it would be virtually impossible for a taxpayer to obtain a reduction of his real property tax based on the principle of discrimination.

We maintain that enactment of the bill would overrule the landmark decision of our Supreme Court in the Kents case (In re. Appeals of Kents, Inc. 34 N.J. 21, 1961,) and place assessment procedures back twenty years to the conditions which the late Chief Justice Vanderbilt called "tax lightning" for the individual taxpayer. The bill would further nullify the decision of the Superior Court, Appellate Division, in Feder, et. al v. City of Passaic, 105 N.J. Super. 157, (1969). Both of those cases recognized the right of an appellant to relief based on the common level of assessment as reflected in the official average ratio when demonstrated that there was not a common level of assessment between properties of the various classes in a municipality.

It has been reported in the press that use of the ratios has resulted in an increased tax burden for many homeowners. I ask that you consider carefully who would be injured by passage of this bill. I call your attention to the following 1970 data obtained from records at the Local Property Tax Bureau of the State Division of Taxation.

For the year 1970, based on the local property tax rolls of the 567 municipalities --

1. there were 1,524,400 parcels of residential real property in the State, representing 72.2 percent of the statewide total of 2,110,236 parcels of real property.

2. the total assessed value of all residential property was $22,506,346,000, or 63 percent of the grand total assessed value of all classes of real property.

3. taxes levied on that residential property totaled $1,183,276,000, 60.1 percent of the nearly $2 billion property tax levy for the year.

Is it your intent by enacting this bill to deny to 72 percent of New Jersey real property taxpayers, nearly all homeowners and voters, use of data to contest assessments by local assessors which they consider arbitrary and discriminatory?

It has also been reported that it was never intended that the sales-ratio data be used for individual appeals. We respectfully wish to disagree with the assertion that these ratios,which are the basis of distributing or allocating over one-half billion dollars in property taxes and several hundred million dollars of State aid, should be denied the use by a taxpayer whose tax bill individually is small in relation to the total amount of aid distributed or taxes allocated for him to pay. It should not be necessary to point out that accumulatively the property tax represents the largest single tax source in our overall State-local tax system. It is our assertion that use of the ratios in appeals was contemplated, at least since 1959 when a simplified method for using the ratios was introduced as legislation but not enacted. (Senate No. 82 Sca 1959 and Senate No. 2 Sca 1960).

The principle in these similar bills was that a real property taxpayer whose property was assessed at plus or minus 15 percent (or 10 percent) of the unweighted average of assessed to true value, had a basis for appeal on grounds of discrimination subject to rebuttal by clear evidence to the contrary.

This same principle has been strongly advocated by the Congressionally created Advisory Commission on Intergovernmental Relations, beginning with its two volume report "The Role of the States in Strengthening the Property Tax," June 1963. The Commission concluded that efforts towards more uniform and equitable property tax assessment should include a full-disclosure policy, and a well developed arrangement for assessment appeals, in particular making use of statistical studies concerning assessment levels.

NJTA for over a decade has advocated a simplified inexpensive appeals procedure such as provided in the aforementioned bills for the benefit of the small taxpayer. Use of the ratios which heretofore has been recognized by the Courts will be denied by adoption of Assembly No. 2291 and take away from every taxpayer, including numerous small homeowners, his only opportunity to bring a relatively simple and inexpensive appeal.

If there is evidence that the sales-ratios include sales which adversely affect certain classes of taxpayers, we urge that there be a special evaluation of the statistical procedures employed with a view to correcting the regulations which are the basis for their use. This might logically be undertaken by the Property Tax Task Force C of the Governor's Tax Study Commission if the seriousness of the problem is brought to its attention.

Thank you for affording us the opportunity to present our views.

ASSEMBLYMAN DICKEY: Thank you very much, Mr. Kerr. Mr. Healey, do you have any questions?

ASSEMBLYMAN HEALEY: No.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: No, thank you. I think this written statement expresses his ideas.

ASSEMBLYMAN DICKEY: Mr. Fiore?

ASSEMBLYMAN FIORE: No.

ASSEMBLYMAN DICKEY: Thank you, Mr. Kerr.

MR. KERR: Thank you.

ASSEMBLYMAN DICKEY: The next witness is Mr. Gerald Hall, New Jersey State Chamber of Commerce.

G E R A L D H A L L: Mr. Chairman, gentlemen of the Committee, my name is Gerald Hall. I am Director of Governmental and Economic Research for the New Jersey State Chamber of Commerce, a voluntary organization of businessmen, large and small, throughout New Jersey.

We appear here today to express our grave concern over the harmful effects upon every, and I underscore "every", property owner in New Jersey that will result should Assembly Bill 2291 become law. That bill, if adopted, would largely wipe out twenty years of progress in reforming and making equitable for all property owners the administration of the local property tax in New Jersey.

In plain terms, A-2291 says that the burden of proof shall be on the taxpayer to prove the existence of an unfair assessment but that he may no longer use the only practicable means of proving the fact of the discriminatory assessment, thereby largely and effectively barring achievement of relief. This can best be described as a sort of "heads, I win; tails, you lose" arrangement for the assessors of the State.

As many here at present painfully recollect, before the 1950's New Jersey local property tax practices were a virtual assessment jungle, often marked by negotiation and

other practices that have been described well in publications, official and otherwise, throughout the years.

In the 1950's and early '60's there ensued a series of landmark court decisions in which, broadly speaking, the courts insisted that the constitutional mandate for taxation of all real property at a uniform standard be followed. They determined that they would grant relief from discriminatory assessments that varied from the uniform standard and indicated that the common level of assessment for each taxing district, as determined by the State Director, could be used as a basis for granting a taxpayer relief from discriminatory assessment.

The Legislature subsequently enacted legislation which included recognition of these basic principles and equitable tax administration.

Before the courts took a hand, it had been most difficult indeed to prove that property was being discriminated against, assessmentwise, simply because the individual taxpayer had no practicable means of establishing just what the general assessment practice in the community might be. This obstacle was removed, however, with court acceptance of the common level data of the State Director as a measure of the assessment level of a community and the deviations therefrom. With the acceptance of the common level concept, every taxpayer had a ready tool to achieve relief from discriminatory assessment and an invitation from the courts to use it.

In truth, the very proposal of this bill is a reflection of the success with which the common level approach has been used to redress discriminatory assessment. And we would emphasize that the adoption of the principal thrust of A-2291 would place more of a burden on the "small" taxpayer that a prominently "larger" one, economically speaking, because while the more affluent

might pursue an appeal by use of attorneys, appraisers, and so on, as so ably described by the Bar Association representatives earlier, the little fellow cannot afford this, and his salvation is the ready availability of the ratios and their use.

We have underscored that New Jersey has gained national recognition in recent years for the successful property tax administration reform and assessment equalization program that has been achieved here through the combined efforts of the Legislature, the Courts and the Executive Branch.

Passage of 2291 would vitiate the central element of that reform, the ready availability to all taxpayers to relief from wrongful property assessment.

We know that you gentlemen, as responsible Legislators, will not wish to be a party to so irresponsible a movement and we, therefore, urge that this Committee indicate its nonapproval of this bill in the absence of any proposal for a viable means of achieving assessment equity in other ways.

We would also suggest that there is likely justification for certain of the complaints of local assessors and tax boards as to the technical preparation of the ratio data by the State Director. The remedy here, we believe, would be a cooperative effort by the State and local personnel to improve these data and their application. There have been deficiencies in this respect at both levels and I think that most of those interested in the techniques here know of these and understand them. A place to start, for instance, as regards the Legislature, would be sufficient appropriation to the Tax Division to adequately staff the Local Property Tax Bureau to permit a greater exercise of appeal review as a starting point for this type of reform.

ASSEMBLYMAN DICKEY: Thank you, Mr. Hall.

Mr. Healey, any questions?

ASSEMBLYMAN HEALEY: No questions.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: No questions, thank you.

ASSEMBLYMAN DICKEY: Mr. Fiore?

ASSEMBLYMAN FIORE: No.

ASSEMBLYMAN DICKEY: Thank you, Mr. Hall.

Our next witness is Mr. Joseph Solimine, New Jersey Association of County Tax Boards.

J O S E P H S O L I M I N E: Gentlemen, my name is Joseph Solimine, former member of this House; a Freeholder for six years; Secretary of the Essex County Board of Taxation since 1951; Past President of the State Association of Tax Commissioners and Secretary.

Might I say at the outset that we in the tax field, who are charged with administering the laws that the Legislatures have passed, have no interest in any special legislation. We think that this is a good bill and it ought to pass for the sake of the administration of the tax laws.

We have discussed this at length at the State Association meetings. We think we know what we're talking about. We have no vested interest, as I said, except to see that the tax laws, which this body has passed, are administered correctly. This is not the case, gentlemen, with the prior speakers.

Might I say that Mr. Berger is a member of one of the largest firms in Newark, the firm of Lasser & Lasser, which tries almost 90% of the big cases in the City. Mr. Lasser also represents the Real Estate Boards of Newark, Hillside, and the other town that was mentioned. They try all these big cases. It was Mr. Lasser that upset the apple cart before one of the Judges of the Division on this ratio. Up to that point, everything was going fine. We don't think that that was a good decision. And I think, for the benefit of the Legislative Committee, it's important that we go into historical facts of this

legislative process.

I regret to see the Chamber take the position that it has because, on one hand, they are trying to help the City of Newark by requesting the Legislature to funnel funds through the front door, and at the same time permitting these funds to escape through the rear door. I have been a resident of Newark since 1906, I'm a member of the Bar, I've been practicing in Newark, and I know whereof I speak. I have the interest of the City of Newark and the other urban centers at heart.

Since the adoption of the provisions under the 1947 Constitution, the county boards have tried to make great strides in correcting the inequities that have existed. There is no question about it that at that time the assessors were assessing at a ratio that they thought would fit their communities in that the lower the ratio the less county taxes that they were paying. So this was recognized in 1954 when the Legislature asked the Local Property Tax Bureau and the Director of Taxation to come up with a formula that would clear these inequities for school aid purposes only. They weren't thinking at all, at that time, of assessing practices. So they came up with the sales study. We in Essex County had already embarked upon it; in fact, as of 1961, every town in Essex County had revalued at least once and had brought their ratio up to where we thought was the proper level.

Now, Mr. Berger also apparently hasn't heard of Chapter 51 of the Laws of 1960 that the Legislature passed, because if he had heard about that act he would not have criticized some of the counties for assessing at 50% because this is exactly what the Legislature said that they could do. The Legislature said you can, by resolution, assess at 100% or you can assess at 50%, and, if you don't pass a resolution, then it's presumed that you're assessing at 100%. So some counties, like

Middlesex County, are assessing at 50%; and it doesn't make a particle of difference because if the rate is $6.00 at 50%, at 100% it would be $3.00. It's as simple as that.

But with the advent of the sales study being used only for school aid purposes, there was no secret about the fact, as I said, that the assessors were assessing at various ratios, and along comes the Kents Case. Now a lot of these gentlemen have mentioned these cases, not being lawyers and just reading the titles or the excerpts from these cases, not knowing the background, and it's only we who have been in the assessing field who know what the background in these cases were.

Now in the Kents Case - and might I say that some of these lawyers, including Mr. Irenas, don't know the difference between a ratio and a common level because if he had known the difference he wouldn't have spoken as he did. In the Kents Case, the Kents Company of Atlantic City brought an action on discrimination alleging that they were being treated differently than other taxpayers. The assessor at that time, this was before Chapter 51 of the Laws of 1960, - the assessors at that time were filing duplicates with the county boards and affixing an affidavit in which they said they were assessing at 100% or true value thereof. When the assessor testified on the Kents Case, rather than commit perjury, he said that he didn't know what ratio he was assessing at. So the Court said, well, if you're not assessing at any ratio, then you don't have a common level and, if you don't have a common level, then we are going to apply the Director's table which by that time was about four years old. And they did. And up to this point the Kents Case has been the landmark on discrimination and most of the county boards have applied it. We, in Essex County, have had no problem with discrimination, and it does not deprive, as some of these gentlemen have said,

a taxpayer from alleging discrimination. The Gibraltar Case is still in effect. And where, under our rules, a taxpayer alleges discrimination, all we ask him to do is show us the properties against which he alleges discrimination. And when he sets forth these properties, we ask the assessor to bring in those cards on these properties where the taxpayer has alleged that there is discrimination, and we have the assessor testify as to what the difference is on these properties. It's all right for a person to say he's got six rooms, I've got seven, but what is the square footage of the house? That makes the difference. And we have granted relief, time and time again; and we have granted relief in the last two years even though the Essex County Board has not recognized the so-called Feder Case, which I will discuss in a few minutes.

So it is absolutely false that they are deprived of their action for relief. I challenge anybody who is an attorney to say that these taxpayers are deprived. In fact, the small individuals are helped even greater than the large people. The trouble is that these firms, like Mr. Berger represents, are getting lazy and, rather than prove discrimination in the way they're supposed to prove discrimination, want to go in and say, we will apply the ratio., we want the ratio applied.

And, incidentally, gentlemen, you know we've had some trouble at the State Division level, with some of the Judges applying the ratio where even discrimination wasn't alleged. And we called it to their attention and they requested that the reports be returned for correction. This is what the situation is developing into.

Now, the Legislature in 1960 passed Chapter 51 which gave the counties the right to pass these resolutions on the level of percentage at which all property would be taxed. In Essex we have 100%. And we try to see that these towns are assessed at 100%. We have been pushing

for revaluation because that is the only way you can achieve it without depriving these people of their right to appeal and allege discrimination. And it has worked pretty nice in Essex. We've only had trouble in three towns and there was a reason for it - West Orange, East Orange and Newark. West Orange requested a delay, even though they had been revalued once, because of the East-West Freeway which was causing an unbalance in their land prices; East Orange, the same; and Newark for various other reasons. Newark has been under an order since 1954 to revalue. But the structure there is changing so fast, the blocks are being demolished so fast that any revaluation which might start today - they're in the process now of going through a revaluation - will take two years. The last one was in 1961 which had been done, I think, in 1957 or '58 and was in the courts before it was reflected in '61. So that there is a discrepancy in values in the City of Newark because there hasn't been an up-to-date revaluation. But it's going to cost the City a million dollars or more when they can ill afford it. The Essex Board knows this. And before that revaluation is filed - the baby will be dead before it is born because of what's happening in the City. So what do you do? You do the best thing you can, you use horse sense. They can still allege discrimination and get it.

Along comes the Feder Case. In that case - and we know these facts, these gentlemen don't know the facts behind the scene, -- the gentleman in that particular town revalued every piece of property; he didn't touch commercial and industrial property because if he had revalued those parcels of property he would have had a lowering of assessments in that category because the industrial property - in that particular area they were moving out and abandoning the buildings. And so the Judge in that case, in the Appellate Division, again

said, well, look, and the assessor wouldn't testify to that effect because if he did the whole revaluation would have been out and he might have been severely criticized for having put out the money, and so forth, by the town fathers. So he refused to testify or didn't testify that he had not revalued the industrial and commercial properties. So the Court in that case, and we all agree, even some of the judges of the division, - the court in that case did not have sufficient evidence before it to come up with a real decision. And they said with the lack of evidence and the lack of facts you don't have a common level and the Kents Case still applies. The Feder Case was not as strong as the Kents Case. It came after the adoption of Chapter 51 of the Laws of 1960.

Now some boards, for example in North Jersey, are applying the ratio to every appeal before it, regardless of whether discrimination is alleged or not. You know what that's doing, gentlemen, up there? That's causing the worst inequity that ever existed in the field of taxation, and the poor guy that doesn't appeal doesn't get the benefit.

Now let me show you what has happened. As you know, the county boards adopt their equalization tables, and prior to 1954 we adopted these tables by applying the ratios that we knew the assessors were using in their districts - we know the ratios - and bringing them up to 100%. Along came the sales study and there were many, many cases, both in the Appellate Division and in the Supreme Court, which said that in the absence of any other data the ratio studies ought to be used in the preparation of preliminary and final tables; but in any event, it was the job of the county boards to come up with their own tables, regardless of the ratios promulgated by the State Director for school aid purposes. And most of the county boards to date are following that

procedure. We, in Essex, have followed it for the past seven or eight, ten years. Where a town has alleged that certain sales upset their ratio, we have a hearing on them.

Now, it is true that we, at the State level, Commissioners and Secretaries, have urged the Director to discard some of these sales and they say, well, no, the Legislature authorized us to study or make a study and use these sales for school aid purposes, we don't care a hoot about valuations and the equalization table. And they're right. So what the county boards have done is, they have checked their own tables and some of their own sales that had been called to their attention on February 1 after the promulgation of the preliminary table. As I said, we have hearings.

Now let me show you gentlemen what one sale did several years ago in West Orange. You will notice on the preliminary table, gentlemen, for West Orange we adopted the ratio of 87.01 which was the ratio which was adopted by the Director in his table of equalized valuations on October 1. And you will notice in the last column the amount of $47,820,963. Now, this table, as you can see, was promulgated on January 24th. One of the towns came in and objected to the ratio set for West Orange and we held a hearing and they brought to the County Board's attention that the McGraw Edison Plant in West Orange, although assessed at $1,400,000, was sold for $5,500,000. So, by the use of that sale, West Orange had a difference between $64 million and $47 million. But, moreover, they were saving $300,000 in county taxes. Now, if the County Board had adopted the ratio of 87.01, there was no indication at that time, gentlemen, that the assessor was assessing property at 87.01 or even at 82 on residential properties.

The fact is that, as you know, these tables are compiled by using the three categories - vacant land,

dwellings, and commercial and income producing properties, which we call 4A or apartments.

Now let me take you to Newark. I am sure that the Director of Assessments in Newark will talk on it. I am now reading from the Table of Equalized Valuations promulgated by the Division of the Director and the Division of Local Property Tax Bureau on October 1, 1970, which show the ratios that we use for our Table of Equalized Valuations in January, unless they are modified, and we have modified them this year after our hearings.

The ratio on vacant land in Newark for the current year, 1970, ran anywhere from 34 to 1,100%. The two-family dwelling ran anywhere from 22 to 370%; and industrial ran from 29 to 546%. That's what the sales show. So you can see that if you weigh these three ratios and come up with an average ratio that the Director did come up with for Newark, for the one year, of 84.02, and for the two year study of 80.51, the harm that it could do to the City of Newark by the use of that ratio. And these are only isolated cases.

Gentlemen, I have another table prepared here - and I am picking Newark because this is where we are concerned at the present time in Essex County. The Essex County Board of Taxation has refused to recognize the theory in the Feder Case, and proof positive is that there have been two other decisions since then by one of the top judges in taxation that we have on the Appellate Division, and I am referring to Judge Labrecque who was on the State Division for many, many years, and he never cited the Feder Case; He cited the Kents Case but not the Feder Case. And to those of us who practice law that means one thing, that is that he doesn't agree with the decision. Now a lot of lawyers don't agree. Those, of course, who are involved in tax work and who stand to benefit by the use of that decision will say that it's a good decision and ought to

stand. We don't think so. We think it's the worst decision that has been handed down and it was only handed down because the Court, again I say, did not have all the facts and he had to do what he did in order to give relief in that particular situation.

Now take a look at Newark. We did not apply the Feder Case in any of the decisions that were rendered in Essex County. Yet we granted relief where discrimination was alleged, contrary to what some of the other gentlemen said; they were before our Board and they know it. And the fuss all developed because Mr. Lasser, who is a member of Mr. Berger's firm, was one of the top men. And I don't say anything malicious. Mr. Lasser is one of the top lawyers on tax work and I mean no innuendos on his practice. But in that case that was decided by the State Division, in which Newark stands to suffer, where the ratio was used for the first time, only one piece of property was used as a comparison. What makes us so sure that that piece of property was not under-assessed. That has not been the law, or that's not been the method of proof heretofore in proving discrimination. That property could have been underassessed and should have been raised. And to take a piece of property in the City of Newark, three or four blocks away, with what's happening in Newark with the blockbusting that's going on and the people moving out, I don't think it's a fair test. And I still say that the passage of this law is the only thing that's going to help out and relieve the situation that's existing in these big cities.

You used the sales tax ratio; Newark argued against it; I still say they're wrong. On the mortgaging out - two sales in one day - one sale for about $2300, the other sale for $20,000 - for the purposes of getting FHA financing. Are these good sales to include in the sales tax study? What does that do

to that ratio? And is it a good thing to have? I think it ought to be left to the county boards to use their discretion and use their horse sense; and if discrimination is proven, and proven the way it should be, in the proper way, without an easy way out, that it should be left to the county boards where you have the faith.

Now, look at these cases. Every case before the Essex County Board has been appealed to the State Division because they know that just by citing discrimination they will get 20% off or 15% off. Here are 32 cases, and it's costing the City of Newark over $2.5 million in ratables, and $407,798 in the return of tax dollars. And if you will look at the years at the top, you will see how far behind the Division is in what it's going to do.

I don't agree with the Taxpayers Association, and I always listened to them when I was in the Legislature but they're wrong on this count; they're way off base because the only ones who are going to be hurt are the average taxpayers because they're not going to go in, they don't know the technique, it's only the top lawyers that know the technique in this case.

And what makes them think that Bambergers would be entitled to $1,300,000 reduction. If they went in on true value and left it there, if they had discrimination to prove, how were they going to prove discrimination? They had an income producing statement there. Somebody was wrong on the Fox-Lance. Mutual Benefit has three buildings up there that are not under Fox-Lance; one was built under the Fox-Lance bill. Fox-Lance is the worst thing, in my opinion, that ever was passed by this Legislature, and I recommended that it not be passed. Newark is taking an awful shellacking on that 15%. Yet they can't come in and allege discrimination because they're bound under that financial

agreement that they made with the City. And we include it in our equalization table when we can get the data. If we can't get the data, we can't get any relief from the Legislature for subpoena powers.

We have tried everything, gentlemen, to create an equalization process here in all our tax structure. And I say that this is a good bill, gentlemen, and it's a very important bill to the taxing people, and it is unfair to the assessor to say that by the use of the ratio they are assessing at that level in certain categories when they are not.

Thank you very much.

ASSEMBLYMAN DICKEY: Thank you, sir.

Mr. Healey, do you have any questions?

ASSEMBLYMAN HEALEY: No questions.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: No, thank you.

ASSEMBLYMAN DICKEY: Mr. Fiore?

ASSEMBLYMAN FIORE: One question.

Under this bill, people have come up and stated that the homeowner now has no means of obtaining a tax appeal because this bill will stop them. Do you agree with that?

MR. SOLIMINE: That's absolutely false. He can come in on discrimination any time he wants to but he has got to set forth the property that he relies on for discrimination; he just can't come in and say discrimination without proving it. The proof is on him. Our rules provide it and we have adopted uniform rules all over the State, the county board members, at our sessions.

ASSEMBLYMAN FIORE: Thank you.

ASSEMBLYMAN DICKEY: Mr. Solimine, may I ask a question?

As I understand your testimony, you say that the tax tables that are developed by the State Division of

Taxation and the county boards should not be used as a rule of evidence. Is that right? In other words, they would not be evidential in this type of hearing?

MR. SOLIMINE: The ratio should be used. For county tax purposes, they don't do any harm because you raise them to the 100% level in any event; but there would be tremendous damage in using them for individual evaluation, sir.

ASSEMBLYMAN DICKEY: And do I understand your testimony to say then that you should allow the county board of taxation to use - I think your word was "horse sense" or maybe I would say "by the seat of their pants" role?

MR. SOLIMINE: Our rules provide that anyone that feels he is discriminated against can file a petition with our board and allege discrimination and set forth the properties. If he lives on a particular block and he feels that his house is assessed higher than his next door neighbor or across the street or down the block, all he has to do is give us the number of the property and allege it in his petition and, automatically, under our rules, the assessor must bring in before the county board the property record cards on those other properties. And when the taxpayer gets on the stand and testifies that he's paying - it's generally taxes, they don't look at assessments -- that he's paying $1,000 in taxes whereas his neighbor is paying $800 in taxes. And it's generally because of the fact, after you give it a close look, there are more bath rooms or the square footage is different or the lot is larger, the land area is larger. But, in any event, the Commissioners go into every detail and they help the taxpayer by asking the assessor to testify from those cards as to whether the taxpayer is right in his assertion.

ASSEMBLYMAN DICKEY: Well, that's available now, isn't it?

MR. SOLIMINE: Oh, yes.

ASSEMBLYMAN DICKEY: And what you are saying is, that would be the limitation of the type of evidence he could present.

MR. SOLIMINE: Oh, he can present any evidence at all, sir. He can present sales, if he wants to; he can show that there were sales on the block. And again the duty is on him to show that the houses were pretty much the same.

ASSEMBLYMAN DICKEY: But you want to rule out, as evidential, the tables that are established.

MR. SOLIMINE: The ratio, because you see the damage that it can do and it is doing; tremendous damage. And I don't believe, sir, that what these other gentlemen have testified to will occur. Now, as I said, I think that the gentleman who testified from the Lasser firm is trying to get an easy way out because all they have to do is allege discrimination and then the application of the ratio. Under the Gibraltar case it puts them to a little tougher job but they don't lose the right to go in on discrimination. But if this keeps up - now Newark may not revalue for two years. See what damage they could do here in Newark, and they can't help themselves; they just can't help themselves. And, as I said, the Legislature is just funneling this money in there to help them and in 32 cases - this is what's causing it. And when the other cases - and I think it's over 2,000 - maybe the Director knows how many cases are on appeal in the City of Newark at the present time -- why, this will go into the millions. And they have no right to this relief. If there's a real case of discrimination, sir, they will get it without the use of this ratio.

ASSEMBLYMAN DICKEY: Now, are all of these decisions, that you've given us a record of, based on this rule of

evidence or are they based on other --

MR. SOLIMINE: By the use of the ratio. So these are taken from panel reports that have just been filed. I haven't gotten the Bamberger one yet, so I couldn't include the Bamberger one. I haven't got a copy of it. The County Board has not been served with a copy of it yet.

ASSEMBLYMAN DICKEY: Now, if they used other evidence, other than the ratio, wouldn't they be successful in their appeals?

MR. SOLIMINE: If they proved discrimination, they might get it. But the use of the ratio, ipso facto, just by saying the ratio is so much, we're entitled to so much off, I don't think is right, gentlemen. It's going to do an awful lot of damage to the assessing practices in New Jersey.

ASSEMBLYMAN DICKEY: But ipso facto, the use of the ratio hasn't alone created this result. Isn't that so? If they used other standards they would probably have gotten similar results?

MR. SOLIMINE: But they are not using it, sir. This is an easy way out. They're coming in and in all our petitions before the County Board they ask for the use of the ratio pursuant to the so-called Feder Case. Then the County Board sits down and hears it and all they're interested in is what is the value of this piece of property. And if he alleges discrimination and alleges it correctly under the rules, we go into discrimination and give him the relief that he seeks, but not by the use of the ratio, sir.

ASSEMBLYMAN DICKEY: Thank you very much.

Any other questions by members of the Committee?

Thank you very much, Mr. Solimine.

MR. SOLIMINE: Thank you.

ASSEMBLYMAN DICKEY: Mr. Robert Ferguson, Jr., Executive Vice President, New Jersey Association of

Realtor Boards.

R O B E R T F. F E R G U S O N, JR.: Thank you very much. I have David T. Houston, President of the Newark Real Estate Board here also.

The individual who was to present the testimony today was weathered in at Nantucket, so I will read it for the record.

I appear before you today on behalf of the New Jersey Association of Realtor Boards.

N.J.A.R.B., with a membership of over 5,000 is the largest organized group of real estate licensees in the State.

The Realtors, perhaps more than any other class of citizens, earn their direct livelihood from sale and rental of all classes of real property. The vast majority of our members devote their efforts to the sale of one family residential real estate.

I believe the preceding background information is important to assist in identifying our interest in the subject matter of today's hearing.

Despite our involvement with the one family home owner, who is purported to be the beneficiary of Assembly Bill 2291, the New Jersey Association must voice strong opposition to this bill.

If A-2291 is enacted into law, the one family home owner would find it very difficult and extremely expensive to pursue an appeal on his real estate tax assessment.

The Realtors feel it is important that all in position of authority recognize this fact now, and not after the damage has been done.

Those within the real estate industry who had the misfortune to become involved in the tax assessment procedure prior to the Court mandated reforms will attest to the fact that enactment of A-2291 could be a

backward move to the dark ages of tax lightning and negotiated assessment rates.

Realtors who specialize in industrial and commercial real estate share the concern of their contemporaries who represent the one family owners that enactment of A-2291 would be a serious impediment to the economic growth of New Jersey.

It is a well known fact industry will not expand or locate in an area where the real estate tax climate is uncertain. A-2291 would present a grave obstacle to the creation of much needed tax ratables and job opportunities.

When the Assembly Taxation Committee meets to deliberate the fate of A-2291, please bear in mind that passage of the bill will make it virtually impossible for the owners of residential rental units to appeal their tax assessments thus mandating upon the tenants unjust and unwarranted rent increases at a time the housing industry is under great pressure from all sides to hold the line on rents.

If there are technical problems with the common level of assessment for taxing districts as determined by the State Tax Director, then NJARB recommends to this Committee that this is the area where we should direct legislative attention and review - the review should be by all interested and knowledgeable groups - rather than destroy a program of proven merit.

Today within the State there is sufficient expertise available to accomplish this. Technical difficulties and deficiencies in the present system, if they exist, can be improved upon thus building a better system rather than destroy one which has taken years to achieve.

In conclusion, I would like to sum up NJARB's position that no class of real property taxpayer will benefit if A-2291 is enacted into law.

At this point, I would like to have David T. Houston, President of the Newark Real Estate Board, continue with the second half of the testimony.

ASSEMBLYMAN DICKEY: May I have your name again, sir?

D A V I D T. H O U S T O N: My name is David T. Houston. I am President of the Real Estate Board of Newark, Irvington, Hillside North, and am also Chairman of the Legislative Committee of the New Jersey Chapter, Society of Industrial Realtors. I am also a member of the American Appraisal Institute.

ASSEMBLYMAN DICKEY: You may proceed, sir.

MR. HOUSTON: My office is in Newark, of course.

Assembly 2291 tends to undermine the ruling of the New Jersey Supreme Court in the Spitz Case in Middletown and the later Kents Case which ruled that all real estate must be assessed according to a uniform ratio of value.

We are all in sympathy with the overtaxed home owner. However, the way to give him relief is to pay for education and relief by statewide broad based taxes and not by juggling assessments contrary to our Constitution and the ruling of our highest court. We also feel that tax-exempt property should pay for the services they receive instead of getting it free from the City.

In my opinion, Assembly 2291 is an extremely dangerous bill. I am very much afraid that the ordinary layman reading this bill or hearing about it would interpret it as licensing incompetence and corruption in the assessor's office. The state of affairs this would set up would be what used to be in effect and what resulted in extremely wide and unfair fluctuations in assessments and tax burdens. Actually, those that were hurt by this state of affairs were the poor, the politically inexperienced, and the largest employers who provided the greatest number of jobs. These latter were

the favorite target of the assessors who figured they couldn't move; but they did. And this is a large part of the cause of the plight of our cities today.

For instance, here are the names of a few companies whose corporate headquarters or major plants used to be in Newark but are no longer there: Standard Oil Company of New Jersey; Celanese; Engelhard; Addressograph; Waterman Fountain Pen; J & J Distributors; J. R. Watkins Company; Worthington Meter Company; The Mennan Company; Swift & Company; National Lock Washer Company; the Basic Company; Pittsburgh Plate Glass Company; The Purolator Company; The Pyrene Manufacturing Company; Breyers Ice Cream Company; Ozite; Krueger Brewing Company; American Can Research Lab; Beneficial Finance Company; Continental Insurance Company, that's the Firemen's; Lindy Air Products Division of Union Carbide; Edgecomb Steel Company; Remco Toys; and now Prudential is accelerating a move to take some of their operations, quite a bit of their operations, out of Newark. They just bought 167 acres in Roseland and they rented a whole office building in Wayne. American Insurance Company, that's Firemen's Fund, is negotiating for a site out of Newark. National Newark & Essex is building their computer center in West Orange.

In most of these cases excessive taxes were one of the straws that broke the camel's back. Many of these companies not only moved out of Newark but out of New Jersey.

Newark's troubles come not so much from taxing procedures but from losses resulting from tearing down ratables and erecting tax-exempt structures, and inefficient administration.

The unemployment rate today in Newark is over 13%; and in the minorities it's double that. This is the result of losing industry. A city cannot subsist without the jobs that are furnished by business and industry. The

others who get hurt are the little people who can't afford to hire attorneys and appraisers to get their assessments down, because this bill will make the appraisal job more difficult and expensive and the legal job the same; and they will be the ones who will lose their jobs as business and industry moves out. The only one whose job will be easier will be the assessor.

This bill will be the death knell of the cities, not their salvation. In the name of justice for the taxpayers and to preserve the reputation of the State of New Jersey in the eyes of the major employers of this Country, I urge that this bill be defeated. Instead, I urge that the real estate tax relief be effected by constitutional means, that is, more broad based taxes.

ASSEMBLYMAN DICKEY: Thank you, Mr. Houston.

Mr. Healey, any questions?

ASSEMBLYMAN HEALEY: No questions.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: Just a couple of questions, Mr. Chairman.

Mr. Houston, we have heard a lot about Newark but we haven't heard much about any place else in the State. Is it your opinion that this particular bill, A-2291, would be primarily harmful to Newark only?

MR. HOUSTON: No. Our office happens to operate throughout the northern half of the State and, in my opinion, this bill would be harmful to all of the larger cities. Their problems are similar and the effects would be similar in all the larger cities, in my opinion.

ASSEMBLYMAN ENOS: Does your experience encompass any work with small home owners or farming communities?

MR. HOUSTON: No. Mine personally? No.

ASSEMBLYMAN ENOS: The number of companies that you stated have moved from Newark, can you say definitely that the primary reason for their moving was the tax structure in the City of Newark?

MR. HOUSTON: The reasons why a company moves --

ASSEMBLYMAN ENOS: No, excuse me, just answer the question.

MR. HOUSTON: Well, to answer that, I cannot say that categorically. I know in many cases it was one of the factors.

ASSEMBLYMAN ENOS: Can you definitely state that this bill, if passed, will cause business and industry to move out of Newark?

MR. HOUSTON: In my opinion, yes.

ASSEMBLYMAN ENOS: Do you have any facts on which to base your opinion?

MR. HOUSTON: My opinion is based on conversations with leaders of business and industry and on their expressed thinking. I can't quote you, and I wouldn't want to quote confidential conversations of this kind.

ASSEMBLYMAN ENOS: Thank you. That's all.

ASSEMBLYMAN DICKEY: Mr. Fiore?

ASSEMBLYMAN FIORE: Mr. Houston, you are with the Real Estate Board. Are you people hired on tax appeals? Not you but people from your outfit. Are they hired for tax appeal cases? Yes or no.

MR. HOUSTON: Yes.

ASSEMBLYMAN FIORE: All right. Are their payments on a fee basis?

MR. HOUSTON: Mostly, yes.

ASSEMBLYMAN FIORE: All right. Now, if we apply the ratio, would the ratio give them a greater appeal on the particular building they're coming in with than as it is presently today?

MR. HOUSTON: Normally, it would give them less money because their job would be so much easier they would not have to charge so much.

ASSEMBLYMAN FIORE: Just a minute.

MR. HOUSTON: I'm answering your question.

ASSEMBLYMAN FIORE: You're not answering the

question. I'm asking you a question. Would the ratio being used give them a greater appeal. You don't have to raise your voice, Mr. Houston. You can talk calmly. I can raise mine if that's what you want to do.

MR. HOUSTON: Sorry.

ASSEMBLYMAN FIORE: That's the question. Will the appeal, basing it on the ratio, give a greater appeal in tax dollars, like it did with Bambergers, for example? Now, Bambergers received $1.3 million. Would you base that $1.3 primarily because the ratio was used?

MR. HOUSTON: Well, I'll try to answer your question. From my own experience, when I make appraisals I charge based on the time it takes me to make the appraisal. And if the job is easier, which it would be by using the ratio, I would charge less money, regardless of the amount of the reduction.

ASSEMBLYMAN FIORE: Let me ask you, would you charge the same fee for $1.3 million as you would for $1,000, on an appeal. If the appeal came in for $1,000 or $1.3 million, you would still take the same money according to your statement.

MR. HOUSTON: It would depend on the property. You mean on the same property?

ASSEMBLYMAN FIORE: Yes, on the same property.

MR. HOUSTON: It depends on whether you're appraising on a fee basis or on a percentage basis.

ASSEMBLYMAN FIORE: On a fee basis.

MR. HOUSTON: On a fee basis, it would be the same.

ASSEMBLYMAN FIORE: It would be the same. In other words, the greater the appeal, the fee remains the same.

MR. HOUSTON: As far as I'm concerned, yes.

ASSEMBLYMAN FIORE: All right. Now, another question here. You say one of the factors for industry moving out of Newark was the taxes. Are you asking for special treatment for industry in the City of Newark in regard to our tax structure? Is that why they're moving

out? They want special treatment? Now, this I don't understand, one of the prime factors is the tax problem and they're moving out. Now, if they receive special treatment or use this ratio, would they remain?

MR. HOUSTON: In my opinion, they would remain. The trouble is that in the past, in a great many cases, industry has been overassessed; they have not been treated fairly and this is the reason, in some cases, the Fox-Lance bill was passed. If you didn't have Fox-Lance in Newark, you wouldn't have the Gateway Center, you wouldn't have Blue Cross, you wouldn't have the Downtowner Motel, you wouldn't have the Western Electric new building, and several other industries that have been located in the meadows. They would just not be there.

ASSEMBLYMAN FIORE: One other question. You made a statement to Assemblyman Enos that if A-2291 were passed you would move out of Newark. This makes no sense to me because it would be State legislation. Where would you move? Out of the State? Where would you move?

MR. HOUSTON: Assemblyman, I didn't say I would move.

ASSEMBLYMAN FIORE: I'm saying industry.

MR. HOUSTON: Industry.

ASSEMBLYMAN FIORE: Where would they move? Out of the State then, I must assume from what you're saying.

MR. HOUSTON: Some of them would move out of State, others would move to communities where the tax rates are considerably lower than in Newark, and there are many that are one-third to one-quarter of what Newark's rate is.

ASSEMBLYMAN FIORE: This makes no sense because they can move now and still move into a community where the tax rate is one-third of the City of Newark's. So I don't understand your thinking here.

MR. HOUSTON: Well, what we are trying to say is that if they are discriminated against, and we are

afraid they will be discriminated against under this law, then they will move out. If they are fairly treated - there is a great deal of industry that even though they are paying a lot more taxes in Newark than they would pay someplace else, they're sticking around because a lot of industry has a very good civic conscience which they are not given credit for.

ASSEMBLYMAN FIORE: Let me say this. You say, treated better - again, that's a general statement. What do you mean by "treated better"? giving tax reductions as one treatment?

MR. HOUSTON: I didn't say being "treated better".

ASSEMBLYMAN FIORE: They are the words you just used.

MR. HOUSTON: Well, what I'm saying is, if they were not discriminated against they would stay.

ASSEMBLYMAN FIORE: All right. Under the present law you can go before your county tax board or your State Tax Board, I understand, I'm not an assessor, but if you can prove alleged discrimination, you may receive an appeal. Isn't that correct?

MR. HOUSTON: Except that industry is being assessed at a higher rate than residential property. They will give you a fair adjustment as to other properties but not as against residential property.

ASSEMBLYMAN FIORE: Well, one of the gentlemen, I believe it was Mr. Berger, I can't remember which one, he mentioned one of the three approaches was income.

MR. HOUSTON: Yes.

ASSEMBLYMAN FIORE: Now, when you talk about a one family, two family, three family house, I'm sure when you assess these people, you don't assess income you assess value of the building by square footage. Now when we talk about Bambergers, I'm sure Bambergers can show some type of income in Newark or they would relocate. So, when you're taxing a building or assessing a building, would you use income as a means?

MR. HOUSTON: You should if it's available.

ASSEMBLYMAN FIORE: We should make it then, if a company makes more money from year to year they should be assessed at greater value.

MR. HOUSTON: No.

ASSEMBLYMAN FIORE: That's what I asked you.

MR. HOUSTON: Well, the income is the rental income, not the company income. The rental income of value of property. Bambergers, for instance, is under lease; it's not owned by Bambergers, it's owned by an insurance company.

ASSEMBLYMAN FIORE: All right. Thank you, Mr. Houston.

MR. HOUSTON: Thank you.

ASSEMBLYMAN DICKEY: Thank you, Mr. Houston.

Thank you, Mr. Ferguson.

I will call Mr. Saul Wolfe, Tax Assessor of the City of Newark.

S A U L A. W O L F E: Mr. Chairman and members of the Committee, I'm Saul Wolfe, Director of Assessments of the City of Newark, and I wish to state that the passage of this legislation is vital to the City of Newark. We are on the ropes, as Mr. Solimine described to you.

I am going to try, in the interest of time, not to reiterate those things which Mr. Solimine said because I concur heartily in his remarks. But we are being hurt very badly by the erroneous interpretation of the decisions of the Court. There has been a lot of misinformation here today and I am going to try to clarify some of it. But I want to point out to you that I address you in no narrow or parochial view of the system as it functions today, despite my connection with the City of Newark.

I have been intimately concerned with these problems for almost ten years. As an Attorney, I have represented many, many taxpayers in appeals on every

issue - before the county boards, before the State Board, and on the very issue that we're discussing here today. I have served as Counsel, as Special Tax Counsel, to more than 25 municipalities. On behalf of the City of Newark alone, I've participated in the trial or settlement of not hundreds but thousands of cases. I have been appointed by several Presidents of the State Bar Association to the Committee on State Taxation, now replaced by the Tax Section where I serve as Vice Chairman of the Committee on Real Property Taxes - more about that later. I'm a certified Tax Assessor of the State of New Jersey, a member of the New Jersey League of Municipalities' Tax Study Committee, a member of the Essex County and State Assessors Association, as well as the New Jersey Institute of Municipal Attorneys; and I do spend more than 5% of my time on tax work.

Now, having had the opportunity to observe the functioning of the system, insofar as it relates to our subject today, I would like to review the problem giving rise to this bill. You've heard a lot of talk about the Kents Case. It was discovered that there were some assessors who absolutely were failing to make any effort to achieve uniform assessments, and that is what the Supreme Court had before it in the Kents Case. And the Supreme Court emphasized that in its decision in the Kents Case where they noted that the assessors disavow any effort to achieve a common level; and the court said, therefore we have no alternative but to try to structure something, and they used the ratio. But, in doing so, the Court was fully aware of the inadequacies and weaknesses of the ratio and so they cautioned that the trier of the facts may properly consider any weaknesses which may appear, as, for example, a paucity of sales in the municipality concerned or some imbalance caused by unusual experience. But the Court went on to say, in that decision, if the local

assessor consciously sought to employ a fixed ratio throughout the taxing district, it may be that level should be accepted without more, as the standard for relief.

Now that sounded very good and it made a lot of sense as far as it went, but it was subsequently distorted in its application. Here the Court said, look out, be on guard for a paucity of sales; and yet, in Berkeley Heights, where they have multi,multi million dollars Bell Laboratories, the Director used and the Court affirmed the use of one single sale of a property - it was either a gas station or a tavern, or something like that - to determine the ratio of assessment on this fantastic operation of Bell Laboratories.

So, starting out, the Supreme Court was on the right track - beware of the weaknesses; but in the search for some kind of statistical certainty they got off the track and they ruled that one sale in a two year period was enough. So that caveat somehow got lost in the application of the overall principle.

Now, despite that fact that if the assessor constantly tries to achieve uniformity, which the Court reiterated again in the Siegel Case the following year, - despite that fact, we have the Feder Case several years later, some seven years later. Now, in the intervening seven years - from 1961, Kents; '62, Siegel - there were no problems; the reductions, by reference to the Director's ratio, were few and far between and only granted in those extraordinary situations like the Atlantic City situation described in Kents. And then along came Feder. And Mr. Solimine told you about the rather unusual set of circumstances. Like most major municipalities today, industrial and commercial values were declining so the assessor didn't bother to revalue those, he just revalued the other properties. That doesn't appear in the decision, this is what Mr. Solimine tells you. What the decision

says is that, despite the assessor's testimony that he tried to assess at 100%, the Court rejected that testimony and applied the ratio.

Now this was a complete departure from Kents and Siegel where they said if the assessor is trying to get it to 100%, go along with him. They went behind the assessor's testimony in this case, without saying it in their decision, knowing that he had not done so, and rejected it. But the impact of Feder is the printed word that appears in the Court decision. And, as a result of that, this has been widely construed as a basis for granting relief on a discrimination appeal by reference to the ratio alone. A flood of appeals have followed where county boards and the Division of Tax Appeals have granted such relief. No longer does the assessor's testimony that he strives for uniformity come into consideration; no effort is made to analyze the weakness of the Director's ratio as the Supreme Court suggested all the way back in Kents; the ratio, as promulgated, is applied to allow this relief.

Now what is the significance of this? What is the distortion that we're complaining about? You must understand the present working of our tax system. Property is, theoretically, to be assessed at true value or 50% of true value, depending upon the county. Now Mr. Berger mentioned that there are three accepted approaches to value, all, theoretically, to determine market value, and the statute, of course, says that the sale of the subject property is the best evidence of market value. So that when the home owner looks at his tax bill, he says, gee, I'd like to appeal this, and he looks at his assessment and he's stuck with what he paid for his house, if he bought it recently, or with the recent sales of similar homes in the same area. But when business or industry or the investor who owns a big apartment house appeals, the decisions generally disregard sales;

the county boards and the Division of Tax Appeals use one of those other approaches, a theoretical income approach, an approach where the taxpayer comes in and he shows how the income that he gets from the property, the expenses that he pays out, don't leave him a sufficient return to justify the price that he paid for the property last month, that he was wrong not by 10%, not by 20%, but sometimes by 40 and 50%. The home owner can't do that. The home owner is stuck with the sale. But the law of New Jersey says, the business man, the commercial, the industrial, the investor can get away with that because, under the Glenwood Realty Case, the county board and the Division of Tax Appeals can't take into consideration the mortgages on the property. So when somebody builds a huge, new, modern apartment building and has a mortgage on it for $2.5 million, we can't put that in evidence as proof of the value of that property and, in fact, he may end up with an assessment substantially under that.

Now, one small illustration, a recent one in East Orange. An apartment building sold for $450,000. According to the decision in the case, they only put in $50,000 cash and the balance was composed of five mortgages. The property, at the time of the sale - and remember, the sale was $450,000 -- at the time of the sale it was only assessed for $322,900, almost $127,000 under the sale price. After the sale, the county board reduced the assessment from $322,900 to $288,000 in the face of the $450,000 sale. And I'm not here today saying that they were wrong given the valuation premise that they were using, because they couldn't consider the mortgage if they had to value the property on a free and clear basis under the law of New Jersey to achieve uniformity among similar taxpayers, but how about that poor home owner? If he pays $40,000 for a house, he hasn't got a chance of going in and saying

it's worth $20,000 because he can only rent his house out for so many dollars and when he got through paying his insurance and somebody to take out his garbage that he wouldn't have any value left and, therefore, he overpaid by 50%; there is no correlation. Yet, this sale was used by the Director in East Orange for computing the ratio that this statute is designed to exclude. The Director used that sale. He didn't think there was anything wrong with it for school aid purposes. And maybe there isn't, for school aid purposes; that's the whole point. This ratio was created for school aid purposes.

And there has been some misinformation here today, gentlemen, about what that ratio is and how it's arrived at. Your predecessors in the Legislature, in their wisdom, did indeed direct the Director of Taxation to make a study - excuse me, to establish a ratio between assessed valuations and true valuations to equalize State School Aid. But you did not mandate him to conduct the sales ratio study which he in fact makes. Quite to the contrary, if you were to look at the text of the statute, which has been so casually adverted to here today, you would find not that the county boards were to look to the Director's ratio but, on the contrary. In your statute which you enacted in 1954, the State School Aid Law, when you mandated that the Director establish a ratio, you set forth - and this is the language you used - "he may make such determination by reference to the county equalization table whenever he is satisfied that the table has been prepared according to accepted methods and practices and that it properly reflects true value, or a known percentage thereof, for the several taxing districts in the county."

So, alternative one was, look to the experts; look to the county boards; they've been in the equalization business since 1905 in New Jersey. But the Director didn't do that.

Alternative two in the statute. The Director could look to the report of the Commission on State Tax Policy and consider other available assessment studies.

And, third and finally, almost a catchall, almost an afterthought in that legislation, you said: "He may make such further and different investigations of assessment practices as he may deem necessary or desirable for the establishment of the ratio."

So, under this catchall provision, the Director structured this sales ratio program which became the gospel as enunciated in the Feder Case.

Now, I gave you one example of why the ratio doesn't work and why it bears no relationship to market values in that East Orange illustration. You must certainly know, gentlemen, that in Newark and in Paterson a number of persons have been indicted for selling homes via FHA financing at ridiculously inflated prices; yet these sales are used by the Director in computing his ratio.

Common practice, in the cities where properties are sold to purchasers with little or no money down, is that the seller pays the buyer's closing costs. If the purchaser is one of those persons who can afford no money down, generally, in order to get the mortgage, you must pay outrageously high points. The seller pays those. In the core cities, in Newark, you don't pay a 6% broker's commission; on transactions like this you pay 7½ to 10% broker's commission, and the seller pays that.

Now all of that is loaded into an inflated purchase price. It's really all going into the mortgage. The purchaser doesn't care because he bought the house. He was told, what difference does it make if you pay rent or if you would be paying off the mortgage at the same monthly figure and at the end of 30 years or 40 years you're going to have something for your children. So, he's not the least bit concerned about price; he's con-

cerned about his monthly payment.

Now you protect the poor consumer who makes those mistakes through effective legislation in the consumer fraud area, but you haven't protected the cities from the impact of those same mistakes as they are being reflected in the Director's sales study. The Director uses those inflated sales and the impact is to drive down the ratio in the city.

Now that ratio is being applied over and over again, but it's not being applied to reduce the assessments on the one family homes. It's being applied on the business, commercial and industrial properties, like the department store in Newark which, contrary to the testimony or at least the opinion of the two representatives of the State Bar Association, resulted in more than a $1 million reduction in the assessment exclusively by reference to the ratio. In other words, they first arrived at a true value and then exclusively, by reference to the ratio alone, concluding that Newark was assessing at 85% of true value, - by reference to that alone they then reduced the assessment by more than a million dollars.

Now, does the Director's ratio work? That is, does it tell an agency or court the ratio between assessment and true value? Everyone hoped that it would but it doesn't. I gave you the Berkeley Heights illustration, the single sale problem. We know that; the court knew it in Kents and cautioned against it. But, nevertheless, it was used.

Now the ratio was authorized by you gentlemen for the allocation of State School Aid and only State School Aid, for no other purpose. Now Mr. Kerr says it's also used for allocating the cost of county government. Well, he's almost right. When it was promulgated, everyone was searching for statistical certainty - let's try to find something we can punch into a computer and come up with an answer. And so, when the ratio first came out the county boards in fact utilized the Director's ratio, a

complete reversal of roles. The Director was told in the statute to look to the counties but, instead, there was a reversal of roles. The county boards did look to the Director's ratio. Everyone wanted to be fair, everyone wanted to be uniform. But what did they find, gentlemen? They found that the Director's ratio doesn't work. And I submit to you, gentlemen, that there's a lot more at stake today as you determine the allocation of the cost of county government as between the municipalities in any county. There is a lot more careful scrutiny of the balance of that than there is of State School Aid. And why is that so? Because you certainly know, gentlemen, the New Jersey Taxpayers Association who testified here today has documentation that the cost of county government for 1971 in the State of New Jersey is almost double what it was in 1965. In six years the cost of county government has gone from $280,400,000 to $553,400,000 and some odd dollars, almost doubled. And in Essex County it's particularly acute, where last year alone our county budget was increased from $93.5 million to $111 million, an increase of almost 20%. Actually, our county budget in one year went up 18.9%. So the county boards, in dealing with equalization, have to very carefully scrutinize the Director's ratio in light of the magnitude of the problem they're dealing with.

And what has that scrutiny resulted in? It's very interesting to know that while they started out using the Director's ratio, in 1970, out of our 21 counties, only 12 accepted the Director's ratio and used it; 11 rejected it in whole or in part; 6 counties, including our very populous counties of Bergen and Middlesex, rejected the Director's ratio completely, they didn't assign the Director's ratio to one municipality in their entire counties.

The overall effect, gentlemen, is that less than

half of the municipalities in New Jersey in 1970, for county equalization purposes, where we need a little more precision and a little more refinement perhaps than in the State School Aid area, less than half of the municipalities were assigned the Director's ratio - specifically, 272 out of 567 were assigned the Director's ratio.

Now, as I stated earlier, the ratio is being used to the advantage of business, industry and the investor, and to the detriment of the home owner. Who is here to speak for the home owner? The Chamber of Commerce? The Board of Realtors? Mr. Houston who handles industrial real estate is piously concerned about the home owner? and throws at you the bugaboo of corruption? The question is, gentlemen, is not the use of this ratio corrupting the system, perverting the very process which was designed to do fairness and equity to all the people of New Jersey. The State Bar Association?

Now, with regard to the State Bar Association - I mentioned earlier that I'm Vice Chairman of the State Bar Committee on Real Property Taxes, and I think it's well known to the Chairman and most people that I have been an outspoken advocate of this bill, yet I was never consulted by the Chairman of the Committee on Taxation, Real Property Taxes, before he made his presentation to the Board of Trustees of the State Bar Association. To the best of my knowledge, no meeting of that Committee was ever called; if there was, I wasn't given notice of it. To the best of my knowledge, when the State Board of Trustees of the State Bar Association, of which I'm a former trustee, and proud to be, - when they ruled on this and passed a resolution, it is my understanding that theydidn't invite me or any other spokesman for the bill, that the only presentation they heard was that of Mr. Irenas and Mr. Berger. So I think you have to take into consideration the interlocking relationships

of the people who are opposed to this bill, as pointed out by Mr. Solimine, and you have to take into consideration whether or not the opposition is founded on knowledge of the way the law works and whether it's constructive or represents misguided or selfishly motivated people.

I saw a letter in opposition to this bill which said, "gentlemen, I'm opposed to this bill, it's going to set back assessment administration for twenty years, it's going to wipe out all the progress we've ever had, although I haven't had the opportunity to read the entire bill." Well, you gentlemen know, the bill is only one paragraph long. But people are being told this kind of thing.

Now, gentlemen, you must be the spokesman for the home owner. There is no other spokesman. There were statistics brought to you today by the New Jersey Taxpayer Association that talked about how much of the property in New Jersey is residential, one family and so forth, but they didn't tell you what percentage of the appeals, what percentage of the reductions granted by reference to the ratio are granted to one family home owners. I don't think you'll find them but you will sure find them being granted to industry; you'll sure find them being granted to commerce. You must be the spokesman for the home owner; you must protect the little guy who is being squeezed to death by the ever-increasing cost of property taxes. The problem in New Jersey, of course, is we have high property taxes but it's not discrimination. This is a gimmick, nothing more than a gimmick, to help business and industry shift the cost on to the poor little guy who isn't here to fight for himself. And if you will report this bill out favorably, if you will vote for it's passage, you will have served your constituents well.

I thank you.

ASSEMBLYMAN DICKEY: Thank you, Mr. Wolfe.

Any questions, Mr. Healey?

ASSEMBLYMAN HEALEY: No questions.

ASSEMBLYMAN DICKEY: Mr. Enos?

ASSEMBLYMAN ENOS: A very short one.

Mr. Wolfe, you gave some figures about the 21 counties in New Jersey. What was the year in which these figures were used? The use of the Director's table, specifically.

MR. WOLFE: Yes, sir. It was 1970, sir.

ASSEMBLYMAN ENOS: All right. Now you said something about 12 years, the Director's table, is that correct?

MR. WOLFE: That's correct.

ASSEMBLYMAN ENOS: Now, --

MR. WOLFE: The Director's ratio, sir.

ASSEMBLYMAN ENOS: The Director's ratio.

MR. WOLFE: Yes, sir.

ASSEMBLYMAN ENOS: Now, the figure 11 that you gave, I didn't quite get that because we only have 21 counties and I came up with 23 here.

MR. WOLFE: Okay. I'll back up. What I said was that 12 of them used it and accepted it exclusively.

I said, I believe - and let me get my hands on it so that I don't mislead you - 11 of the counties rejected it in whole or in part; 6 rejected it completely. In other words, of the 11, six rejected it completely. But it does look like we have 23 counties, doesn't it?

ASSEMBLYMAN ENOS: Not when it's properly explained, but I wanted to be sure my notes were correct.

MR. WOLFE: Okay. I get this information, by the way, the source material is in the December 1970 issue of New Jersey Municipalities, the publication of the New Jersey State League of Municipalities. It's an article by Dr. Henry J. Frank, a Professor of Finance at Rider College, and it's an article entitled The 1970

County Equalization Table.

ASSEMBLYMAN ENOS: I have that, sir, thank you. That's all the questions I have, Mr. Chairman.

ASSEMBLYMAN DICKEY: Any questions, Mr. Fiore?

ASSEMBLYMAN FIORE: No.

ASSEMBLYMAN DICKEY: Thank you very much, Mr. Wolfe.

MR. WOLFE: Thank you, sir.

ASSEMBLYMAN DICKEY: We will recess for three-quarters of an hour for lunch.

(Recess for lunch)

Afternoon Session

ASSEMBLYMAN DICKEY: Gentlemen, I will call the Committee to order. Please take your seats.

The next witness listed on our agenda is Mr. Arthur H. West, President of the New Jersey Farm Bureau. I believe he was unable to stay for the afternoon session and he has submitted a written statement which we will make a part of the record.

(Statement submitted by Arthur H. West can be found beginning on page 104.)

The next witness is Mr. Samuel Befarah, Jr., President; Alfred J. Green, and Walter Salmon, Municipal Assessors Association of New Jersey.

W A L T E R S A L M O N: Gentlemen, my name is Walter Salmon. I am the Assessor in both Mount Laurel and Moorestown Townships. Any other accolades I won't express.

The paper you have before you is titled, Comments on Legislation, Assembly Bill No. 2291.

The Act concerns itself with proceedings to review the assessments on "Real" property; to establish certain rules of evidence relative thereto; and to supplement Title 54 of the Revised Statutes.

Paragraph 1, Lines 1 to 6 states:

In any proceeding to review an assessment of taxes on "Real" property, it shall be presumed, subject to being rebutted by a clear preponderance of evidence to the contrary, that the taxing district assesses real property at the percentage level of taxable value established by the County Board of Taxation, pursuant to Section 1 of P.L. 1961, c. 51, etc.

COMMENT:

The presumption of the percentage of taxable value is stipulated, inasmuch as assessors generally use uniform approaches to value, which value and approach selected is influenced by market trends of sales, incomes, zoning, location and many factors inherent in value. A knowledgeable

and qualified appraiser of real property for ad valorem tax purposes, mortgages, condemnations inheritances, sales, leases, or any of many purposes, analyzes the market as a first step toward an estimate of value.

The assessor, under the statutes, is charged with the responsibility to assess all real property at such fair market value, which in his judgement, the property would command in exchange in an open market. Further, the assessments are computed on an assumed equity basis by the use of base year values upgraded to current year's market indicators.

To any established, full or fair market value, there is a mandatory percentage of value established by the County Boards of Taxation of the State, whether it be 30%, 50%, 100% of value, or whatever percentage the County selects.

PARAGRAPH 1- Lines 6-17 States:

In any such proceeding, neither the average ratio of assessed to true value of real property in the taxing district determined by the Director of the Division of Taxation pursuant to P.L. 1954, c.86 (C.54:1-35.1 et seq.) for the purpose of State school aid distributions, nor the general ratio at which real property is assessed in the taxing district determined by the county board of taxation pursuant to R.S. 54:3-17 for the purpose of equalizing the assessments of valuations among the several taxing districts of the county, shall be admissible as evidence of a common level at which real property is generally assessed in the taxing district and to which an alleged discriminatory assessed valuation

should be reduced.

COMMENT:

The procedures established for State school aid purposes, and for the purposes of equalization of County taxes to be paid by the several municipalities are admittedly obsolete and discriminatory at best, but we are not attacking that subject at this time.

We are attacking the use of a municipal ratio, or common level, as being admissible as evidence in discrimination appeals.

The computation of the common level percentage requires many steps toward conclusion.

1. There are four classes of property to be analyzed:
   (a) Vacant land
   (b) Residential
   (c) Farms
   (d) Commercial / Industrial
2. The assessment ratio of each class of property is computed to establish a "true value" of all property in that class.
3. The aggregate of the "true value" of the combined c classes is assumed to be the total value of taxable property within the taxing district.
4. The aggregate assessed value of all ratables, as certified by the county board of taxation, is then divided by the computed "true value" figure of the combined classes, which result establishes the common level, or district weighted ratio, for the municipality.

Two explanatory computations, illustrations #1 & #2, are annexed hereto. Further, the Director's computation for school aid purposes include both the current and the prior year sales and assessment figures. Consequently an adverse sale, in any class, drastically effects the common level for a two year period.

The assessor is charged with the responsibility to assess "Real" property only, yet, literally hundreds of residential properties are sold including personal property, the value of which is not separated or declared on the affirmed selling price stated on the deed. Examples of such transactions are attached. (see illustration #2)

In the computation of the common level, the assessment ratio of residences is applied to farm assessment values even though there were no farm sales during the past number of years. This practice is discriminatory against all taxpayers since it affects both school aid and county taxes. It is reasonable to assume that municipalities having no farms have a district common level advantage over those in the county that do have farms.

Historically, vacant land is the prime cause of low assessment ratios. Residential sales, due to escalating replacement costs and the shortage of tenable units is a close, if not equal, second cause.

Hypothetically, if land is assessed at 60%, residentials at 75%, farms at 100%, commercials at 100%, and the common level at 72.66%, should it be permissible to claim discrimination on an industrial property? (see illustration #1)

The obvious answer is no, the 72.66% common level should not be used. The remedy is to seek equal assessment of the property in question, through the procedure of comparison of like property with proper adjustments for date of sale, location, age, construction, utilities, et cetera.

Historically, properties assessed at a presumed fair market value, and which are reduced for reasons inexplicable by county board or division of appeals action, further dilute the ratio when these same properties are sold at a later date at a price higher than the original assessment.

CONCLUSION:

(a) It is stipulated that real property is presumed to be assessed pursuant to Chapter 54:4-2.25

(b) Assessments are computed on individual parcels in each class or category, dependant on the use for which the parcel may or not be improved.

(c) The assessment ratio in one class of property should not be used in another class since each serves a separate use, and commands a separate market value.

(d) The assessor may not assess property other than real property, and he has no control over personal property which influences a sales ratio and a common level.

(e) The directors ratio and the county ratio are designed for the broad aspect, and not for the determination of individual property class assessments.

(f) There is no tangible basis of proof or reason that would make it logical for common level ratios to be applied to an individual class of property in a discrimination appeal in unrelated property classes.

(g) Therefore, in the absence of more adequate and/or better legislation, coupled with a possible improper use or misuse of the application of ratios, we are obliged to support Bill A-2291.

(h) A review of a previously introduced Senate Bill, namely S-2 introduced some years ago and endorsed by the Assessors Association of the State, as an alternate to the Bill under discussion. This bill S-2 was designed to give a measure of relief in the event that discrimination was evident in an assessment. It carried with it a 15% plus or minus tolerance that would in actuality protect both the municipality and the taxpayer.

If we turn to Illustration Number 1, this shows the common level computation with application of residential ratio applied to Farm and Commercial Classes even though no sales were recorded.

Without running through all the figures, let's take Number 3, Farm Regular, for a two-year period. In the calculation of the weighted ratio, if we apply the percentage or ratio of residential to that farm, then we would increase the aggregate assessed value of farms from $375 thousand or million, whichever you want to use, to $500 thousand or $500 million, and the same with the industrial and commercial properties. It would increase that figure of $3 million to $4 million. The district assessment sales ratio aggregate assessed value divided by true value would then result in 72.66 per cent.

(Illustration Number 1 can be found on page 107.)

Illustration Number 2 is a computation establishing the District weighted ratio reflecting the correction of certain transactions which included personal property in the sale price.

Again I will not run through all the figures, but leave that for future study.

(Illustration Number 2 can be found on page 108.)

In the final analysis, gentlemen, the district assessment sales ratio in this case, which happened to be a true case, should be 101.44 per cent. It was corrected upward from 89.83 per cent, after the elimination of sales, including personal property, as well as for other reasons inconsistent with regulations.

On the next few pages following are actual questionnaires sent back to my office from people who have purchased property. Let me explain that after each property is sold, regardless of its selling price or assessment, a questionnaire just like the one that you see here is sent to the property owner. In the case circled number two, the question: What was the value of extras? In this case the property was sold for $47,000. That was the prime consideration. And the extras in this property were $4,150. They include such things as combination storm sash, electric garage door openers, power-mowers, carpents, draperies, curtain rods, etc.

In the next one, we have a lesser selling price of $37,000 and the value of the extras were $3,000. That included window air conditioning, all drapes and curtain rods, storms and screens, wall to wall carpeting and a workbench.

In number 11, a sale of $28,5000, the value of the extras was $3525. That was for carpeting, refrigerator, freezer, three air conditioners, a tenna-rotor, three fans, disposal, washer and dryer, infra lights, two desks, a Chambers range and a dishwasher.

Number 13 was a $47,000 sale, in which there was declared $8,000 worth of personal property, and they are enumerated on that sheet.

In the last one, we have a lesser amount of extras of personal property, $1300, on a $32,450 sale, which included 5' x 6' mirror, refrigerator, bookcase, carpet, washer and dryer, and a dishwasher.

On the next pages following, I wanted to point out that any time we have a disagreement with the grantor's list, whether or not the sale should be used - and unfortunately these are not very clear copies -- but you will see down at the bottom just above the words "field representative, "No

basis for deletion." But under "Reason for Change," this included quite a lot of personal property. The second one is just like it. I have only six here, but at one time I had some twenty-five or twenty-six just such cases.

While I will say, the Local Property Tax Bureau gentlemen were very generous in some cases, I think this is something that is happening all over the State, where the inflation, for one thing, the inclusion of personal property and the disallowance of certain personal property in those sales, are creating a low ratio of sales.

We are in a bedroom community, so to speak, but we do have a quite of number of farms. In the two municipalities, I have about 300 farms. I think the gentleman on the end over there to my left will appreciate what I am talking about when I say that the sales ratio of residentials as applied to farms could bring it up to a true level. This I think is hurting the over-all ratio of municipalities blessed with a lot of farms.

Gentlemen, in conclusion, as I have mentioned, in the absence of more adequate and/or better legislation, coupled with a possible improper use or misues of the application of ratios, we are obliged to support Bill A 2291.

ASSEMBLYMAN DICKEY: Thank you, Mr. Salmon. Any questions?

ASSEMBLYMAN ENOS: I have been following very carefully as he read his statement. This includes your recommendations and your ideas with respect to this particular bill, is that correct?

MR. SALMON: Yes.

ASSEMBLYMAN ENOS: And all of us have a copy of it?

MR. SALMON: You all have a copy of it.

ASSEMBLYMAN ENOS: Thank you. That's all.

ASSEMBLYMAN DICKEY: Is Mr. Green, going to testify also?

MR. SALMON: Yes, sir.

A L F R E D J. G R E E N, J R.: Gentlemen, my name is Alfred Green, Jr., Tax Assessor, City of Clifton, Past President of the Municipal Assessors Association of New Jersey, and Director of the International Association of Assessing

Officers.

The problem we are confronted with today in the absence of legislation of this type, as previous speakers have noted, is the use and misuse of the ratio and appeal procedures. Included in the study is the one approach to value, market price, not market value but market price.

We are obliged to consider all three approaches when we value property and give a conclusion or greatest weight to one of those approaches. In residential property, it is normally an analysis with adjustment of market prices to come up with a market value estimate. This is perfectly proper. It completely negates in income-producing or industrial properties the use of income or even the cost approach entirely. The use of the market prices on this type property -- I believe it is safe to say that there is not one sale that is used where all of the conditions of the sale are known, where there is the financing, the credit controls, the advantage of IRS as far as depreciation is concerned. If that has been exhausted, oftentimes it is advantageous for a plant to vacate and move elsewhere to take advantage of just this one item. None of these things are considered under a market price consideration of the ratio study and it distorts the picture by the lack of these things.

We think it is a good method for school aid and county costs because it relates only to the over-all picture of the assessment rules and not to any individual line item. I think this is one of the areas that is greatly distorted by the use of that type sale on a commercial and industrial property. Because the larger the plant, the longer it will take to sell it. And if a plant is vacated immediately, that market price is depressed. That is not to say the value is depressed, but certainly the market price is depressed. So the whole picture is distorted under the use of this study for this purpose on individual properties on appeals.

Thank you, gentlemen.

ASSEMBLYMAN DICKEY: Thank you. Any questions?

(No Response.) Thank you, Mr. Green.

The next witness is Robert Woodford, New Jersey Manufacturers Association. I am sorry, Mr. Woodford. I neglected Mr. Befarah.

S A M U E L B E F A R A H, J R.: My name is Samuel Befarah, Jr. I am the Assessor of Asbury Park and President of the Association of Municipal Assessors of New Jersey.

I would like to point out to this Committee that our Association recognizes the need for some type of legislation if we are going to open ourselves to the possible use and misuse of ratios.

I listened to testimony this morning concerning the widow and the poor homeowner. There is no question in our minds that unless something is done, these are the people that are going to carry the burden. This has been pointed out to you before.

I don't intend to elaborate on anything my fellow assessors have mentioned, but some statements were made here this morning. I am just sorry these gentlemen have left because I would like to point out that in the assessment field today we have many, many qualified assessors. I notice they went back to the Kents Case, but they haven't talked about what has been done in the field of assessment administration since the Kents Case. It may well have been that we had many, many part-timers in our field. However, today, education in the field of assessment administration is practically mandatory. The so-called part-timer is falling by the wayside. These are dedicated men in this field today. They know about discrimination. They know about ratios, common levels, etc.

I would like to point out to this group - don't believe everything you hear in this room today concerning tax assessors.

In New Jersey today, we have taken some steps, as I pointed out, as to mandatory education. Assessors today have to be certified and licensed. We continue with our

educational programs, with new and better educational programs. We do not want to hog-tie or corral the taxpayers by doing anything that will not give them their fair day in court.

We stand ready to assist in any way possible. I happen to have served on the Director's Sales Ratio Committee. I think it took two years to do the study, a copy of which I have here and which I would like to submit for your edification. I would like you to examine it. It is the only copy I have at present.

We appreciate the opportunity of being heard today. I could probably go on for about another half an hour. One thing I think I must mention: They talked about the three approaches to value. I think what Newark and Essex County are concerned about is use of the one method, which is the income approach. You don't have to be an assessor or real estate expert to understand that today in our spiralling tax rates in the various communities that as the tax rate goes up, the value, when you use the income approach, decreases automatically.

There are many remedies being used today, one being fair rental value. I don't know the situation in Newark but I am sure if a lease began ten years ago and a man was collecting $80,000 a year, the courts would only be concerned today with the present fair rental value.

I am trying to show you there are many avenues of relief as far as the taxpayers go, but wholesale application of the ratio would not be in the best interest of the taxpayers of New Jersey. Thank you.

ASSEMBLYMAN DICKEY: Thank you very much, sir. Any questions?

ASSEMBLYMAN FIORE: I have one question. I assume you support A 2291?

MR. BEFARAH: Mr. Fiore, our statement submitted by Mr. Walter Salmon speaks for itself.

ASSEMBLYMAN DICKEY: Thank you, sir.

Mr. Robert Woodford, New Jersey Manufacturers Association.

R O B E R T W O O D F O R D:

Mr. Chairman, members of the Assembly Committee on Taxation:

I am Robert Woodford, Assistant Secretary of New Jersey Manufacturers Association, appearing on behalf of our Committee on Taxation.

Our Committee has reviewed the provisions of Assembly 2291 and has considered its potential impact on the efforts of this State to achieve property tax equity.

Over the past 14 years, judicial interpretation of the Constitution of New Jersey, legislative action to provide tax uniformity, and substantial efforts to upgrade the role, preparation and performance of assessors has resulted in substantially greater uniformity and equity in local property taxation in New Jersey. A State whose municipalities raise $2 billion from the local tax on real estate -- far in excess of the combined yield of all State-imposed taxes -- must insure equal treatment of taxpayers in the distribution of this immense burden of taxation.

Three very substantial advances have made New Jersey a leader in the pursuit of property tax uniformity:

(1) Largely through the effort of the Association of Municipal Assessors of New Jersey and the Local Property Tax Bureau of the State Division of Taxation, we have established courses of instruction in appraisal and assessment procedures and have provided a system for examination and certification of assessors.

(2) We have established a property tax appeal procedure which, in the first two appellate levels, is informal and open to every property owner, without requirement of legal counsel.

(3) We have established procedures by which the common level of assessment in each taxing district is determined each year for purposes of equitable school aid distribution (by means of the sales ratio established by the Director, Division of Taxation) and for purposes of properly distributing the costs of county government (by means of county equalization ratios).

With this outstanding record of property tax reform as a point of reference, it is essential that A-2291 be judged in terms of its ability to further such reform. Unfortunately, even a cursory review of the bill dispells any notion that it would serve to establish further equity or uniformity.

Assembly 2291 establishes a presumption that the taxing district assesses real property at the percentage level of taxable value established by the county board of taxation -- a presumption which could be supported by facts in few districts. At present, New Jersey law presumes that an assessment is correct unless the taxpayer proves otherwise. To prove that an assessment is incorrect, the taxpayer has the burden of establishing the market value of his property and demonstrating that the property is assessed at a percentage of market value greater than that at which other properties in the district are assessed. The New Jersey Supreme Court has held repeatedly that a taxpayer who is able to demonstrate a substantial difference between his assessment and the common level of assessments in the district is entitled to relief. For this purpose, the Director's sales-ratio and the county equalization ratios, as the only broad, reliable and neutral indicators of common level available to the taxpayer, may be used by the taxpayer to show the common level. The court has gone further to require that a

taxpayer be reassessed at the common level where substantial discrimination has been demonstrated. Since the common level represents a range of assessments, only fairly significant departures from the common level have been recognized as cause for relief.

Assembly 2291 would take from the taxpayer his only simple, reliable and inexpensive means of establishing the common level of assessment in his district. For all practical purposes, it would deny relief to property taxpayers on the basis of discrimination since no taxpayer could afford to duplicate the efforts of the Division of Taxation or a county board of taxation in establishing the common level of assessments. No piece of legislation could be less consistent with New Jersey's effort to establish property tax equity and uniformity.

We urge that your committee oppose passage of Assembly Bill 2291.

ASSEMBLYMAN DICKEY: Thank you very much, Mr. Woodford. Any questions? (No response.)

Mr. Richard McCarthy. Will you identify yourself, Mr. McCarthy? Although I know you, the other Committee members may not.

R I C H A R D F. M c C A R T H Y: I am Richard F. McCarthy. I am the tax collector for Burlington Township, Camden County.

I came to testify primarily on Bill 2443. I have submitted copies of a complete statement and the statement that I am going to make now to the Committee, but these copies are only a rough draft and I will submit a corrected copy later.

ASSEMBLYMAN DICKEY: Mr. McCarthy, do you have anything that you wish to tell us about Assembly Bill 2291.

MR. MC CARTHY: What I will say on this will cover it. Now if you would rather wait ---

ASSEMBLYMAN DICKEY: I think we had better wait until we get to the other bill. We will confine ourselves at this time to 2291 if it is all right with you.

MR. MC CARTHY: That is fine. Some of the comments will pertain to it and then you can refer back to it.

ASSEMBLYMAN DICKEY: Fine.

Ethel Yahnel, Tax Analyst, Middlesex County.

E T H E L Y A H N E L: I am Mrs. Yahnel, the Tax Analyst of Middlesex County. On behalf of the Middlesex County Board of Taxation, I have been asked to come to support Bill No. 2291.

We in Middlesex County have been conducting sales ratio studies since 1952, a long time before the State started their sales study.

We do not use the State Director's ratio. We are the county that uses the unweighted ratio because we find there are too many distortions in the State table. We understand the reasoning behind the court's ruling that because of the number of districts that have to be studied, it probably is wise for the Director to insist on the format that he has followed, but we do not find it adequate in Middlesex County.

We also find that even use of just the unweighted ratio does not give you a correct picture because we have never had adequate samplings in industrial sales or commercial sales or, in most municipalities, even in apartments. So one or two sales, one way or the other, would have a completely distorted effect on the decision on whether or not that particular class of property is over-assessed or under-assessed. There is no great difficulty for anyone to prove if there is actual lack of uniformity within a municipality. It can easily be done by showing values and it has been done through the years.

We do not have now the type of assessors we used to have in 1960 when the Kents Case was decided. They are well informed. The average taxpayer, because of the increased burden of taxation, is very much better informed than he was even

five years ago because he has had to be.

We know too that we are getting ratios in residential classes that reflect the Federal Chapter 235; where the complete price is subsidized by the Federal government, we are getting FHA classes. These people can compare their property with comparable property in the municipality and they do it regularly. No one has to worry about anyone owning a residence, being able to come in. First, he can go to his assessor. Second, he can come to the County Board. He can be shown the assessments in the area and the comparable assessments. So the average homeowner would not be hurt by this. But the application of it to income-producing property does hurt the average homeowners in that there is a continuing repetition year after year after year of appeals by the same people; by applying the increased tax rate, they want a lower assessment. They aren't selling their places; they are making enough money out of them. But they are just paying less and less taxes. That is our reason for objecting to its use in an ordinary appeal.

ASSEMBLYMAN DICKEY: Mrs.Yahnel, will you explain the terms "weighted" and "unweighted" and how they apply here.

MRS. YAHNEL: In the Director's table, he has four classes of property: Class I, which is vacant land; Class II, residential; Class III is farmland and that is divided into regular farmland and qualified farmland under the Farmland Assessment Act; and then Class IV, which has three classes. There are the commercial, the industrial and the apartments. And anything which doesn't fit into any of the other three classes is thrown into Class IV.

Now, the weighted ratio as used by the Director is weighted in two ways. It is classified as to the type of property it is and it is also weighted by the sales price as opposed to the assessment value, so that a very large sale has a far greater effect, although it may not be at all representative of the property in a municipality than would many smaller sales.

Now the unweighted ratio -- each sale is given its ratio. The sum of the ratios is divided by the number of the sales and that gives you the unweighted ratio. There is no classification of any kind.

ASSEMBLYMAN DICKEY: Thank you. Any questions?

ASSEMBLYMAN FIORE: Just one question: Someone said this morning that we have some of the problems in our cities because our assessors do not know what they are doing. But from what I gather from you and Mr. Befarah, they do have programs now and these assessors are qualified and capable individuals in assessing property and evaluating it in regard to the municipality where it is located. Is that correct?

MRS. YAHNEL: Oh, yes, it is required now by law that every assessor, unless he has been an assessor continuously since 1967, be certified under the statute requiring certification.

ASSEMBLYMAN FIORE: They also take additional training, do they not, for example, going to college?

MRS. YARNEL: They have in-service courses all the time. They have a four-day seminar every year at Rutgers, at which they discuss every angle of assessing. They also have special courses throughout the State on different fields, particularly the field that is most affected in that area. Different areas are affected by different things. You don't give a farmland course in Newark, but you have to have them in Middlesex County and certainly in Gloucester County.

ASSEMBLYMAN FIORE: Thank you very much.

ASSEMBLYMAN DICKEY: The next witness is Ralph Todd, President of the Essex County Assessors' Association.

R A L P H T O D D: Thank you, Mr. Chairman. My name is Ralph Todd. I am the assessor in West Caldwell and President of the Essex County Assessors' Association.

On behalf of the Essex County Association, we unanimously endorse Assembly Bill 2291 as submitted by Assemblyman Fiore and his constituents. The Association also endorses wholeheartedly the statement of one of the earlier speakers, Mr.

Saul Wolfe, as anything he reflected in Newark doesn't hurt Newark only - it hurts the entire County of Essex. Thank you, gentlemen.

ASSEMBLYMAN DICKEY: Thank you very much. Any questions? (No response.)

Mr. John E. Moore and Mr. Bingham of the Merchants Refrigeration Company? He says he has no statement to make. Thank you, sir.

Is there anyone else who wishes to be heard concerning Assembly Bill 2291? If not, I will declare the public hearing on Assembly Bill No. 2291 closed. We will take a five-minute recess and we will proceed then on a public hearing on Assembly Bill No. 2443.

(Hearing Concluded)

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STATEMENT OF ARTHUR H. WEST FOR THE NEW JERSEY FARM BUREAU, PUBLIC HEARING ON A-2291 AND A-2443 BY THE ASSEMBLY COMMITTEE ON TAXATION, JULY 6, 1971

Chairman Dickey, members of the Committee, ladies and gentlemen:

My name is Arthur H. West. I am the owner and operator of a farm near Allentown, New Jersey, and appear here today as president of the New Jersey Farm Bureau, representing some 4,000 farm families in 20 counties. Our statement will be brief and to the point.

We have given careful consideration to both of the bills you are considering here today. Our farmers still own a fifth of the total land area in New Jersey, with more than a billion dollars invested in that land, in buildings, machinery and livestock; and for this impelling reason, we have a vital interest in any legislation affecting the taxation of property.

With regards to A-2291, we are strongly in opposition to this bill. This bill is the best way we know of to make progress backwards. This bill would take us back twenty years before we had some property tax reform. As we understand it, this bill would change the law so that the presumption in a tax appeal case would be on the side of the assessor. The property owner would no longer be able to use the State or county-determined local assessment ratio data as a basis for relief from discriminatory assessment. Instead, the appeal board would have to assume that the assessor had assessed a piece of property at the common level; and the property owner would have to prove otherwise without the benefit of the published data.

Let me say that we agree that this state badly needs reform in property tax assessment, and particularly the appeals procedure; but this bill certainly goes in the wrong direction.

What we need instead is to abolish the present appeal boards and create a property division of the State Court to handle these appeals and also eminent domain cases. We are particularly critical of the State Board of Tax Appeals,

since we know of many cases in which it has taken two and three years to get a ruling.

We hope that you will reject this bill in your Committee. In our opinion it does not deserve the consideration of the full Assembly.

Regarding A-2443, we are reluctant to oppose it, because it is sponsored by some of our good friends in the Assembly; but we must in all good conscience oppose this legislation. We certainly do not believe that the creation of a new assessment revaluation board at the county level will bring us the kind of reform we need on revaluations. The present county boards of taxation already have the authority to order revaluations; and it might make sense to provide a means for the present boards to undertake revaluations on their own volition; but we do not favor setting up another politically-oriented board at the county level to undertake this job.

Instead, the Assembly should pass Senate Bill 2195, which would give the State Division of Taxation authority to set up standards for private revaluation firms. We know from experience that such legislation is sorely needed; since some of the revaluation work being done in this state leaves much to be desired.

We appreciate the opportunity to present our views.

THE FOLLOWING EXHIBITS WERE SUBMITTED BY WALTER SALMON

ILLUSTRATION # 1

Common level computation with application of residential ratio applied to Farm and Commercial Classes even though no sales were recorded.

CLASSIFICATION	No. of SALES	ASSESSED VALUE	TOTAL SELLING PRICE	RATIO
#1 (Vacant land)				
current yr.	16	120,000	200,000	60.0%
prior yr.	10	240,000	400,000	
Two yr. total	26	360,000	600,000	
#2 (Residential)				
current yr.	20	250,000	400,000	
prior yr.	30	500,000	600,000	
Two yr. total	50	750,000	1,000,000	75.0%
#3 (Farm Regular)				
current yr.	0	100,000	0	
prior yr.	0	100,000	0	
Two yr. total	0	200,000	0	75.0%
#4 (Comm-Ind.)				
current yr.	0	200,000	0	
prior yr.	0	200,000	0	
Two yr. total	0	400,000	0	75.0%

CALCULATION OF WEIGHTED RATIO

CLASSIFICATION	Aggregate ASSESSED VALUE	Class RATIO %	TRUE VALUE
#1 (Vacant land)	720,000	60%	1,200,000
#2 (Residential)	1,500,000	75.0%	2,000,000
#3 (Farms)	375,000	75.0%	500,000
#4 (Comm-Ind.)	3,000,000	75.00%	4,000,000
	5,595,000		7,700,000

DISTRICT ASSESSMENT SALES RATIO:

Aggregate Assessed Value divided by true value

$5.595,000 ÷ $7.700,000 = 72.66

ILLUSTRATION #2

Computation establishing the District weighted ratio reflecting the correction of certain transactions which included personal property in the sale price.

		Assessed Value	Sales Price	%
Class I	Current Year	$ 51,150	79,200	
	Prior Year	62,100	68,250	
	Total	113,250	157,450	71.93%
Class II	Current year	2,199,075	2,593,980	
	Prior Year	2,241,250	2,430,799	
	Total	4,440,325	5,024,779	88.368%
Class III		None		88.368%
Class IV(a)	Current year	56,950	38,105	
	Prior Year	- - -	- - - -	
	Total	56,950	38,105	149.455%

CLASS	SR3-1969 Aggregate Assessed Value	Sale Ratio	True Value
I - Vacant Land	$ 3,318,430	71.93	$ 4,613,415
II - Residence	80,030,145	88.37	90,562,877
III - Farms	2,728,610	88.37	3,087,710
IV(a) - Commercial	28,264,085	149.46	18,910,802
IV - Other	14,034,375	149.46	9,390,054
	128,375,645		126,564,858

District Assessment Sales Ratio =

$128,375,645 ÷ $126,564,858 = 101.44%.

Corrected upward from 89.83%, after the elimination of sales including personal property, as well as for other reasons inconsistent with regulations.

(2) 217M-15 Book

QUESTIONS TO BE ANSWERED:

Property address 217 Winding Way Block 217M Lot 15

Name of buyer(s) Mr. & Mrs. Marshall L. Johnson

Was this an outright sale? yes

If no, explain —

Was there a family relationship between buyer and seller? no

Was a mortgage assumed? no How much? $ —

What was the prime consideration? $ 47,000.00

For land? $ 8,400.00 For building? $ 34,450.00

What was the value of extras? $ 4,150.00

Please enumerate items Combination storm windows, Electric garage door opener, Carpet, draperies, curtains and rods, shades

Were any unpaid taxes included in purchase price? no

Total amount? $

Name of broker, if any Mr. Paul Reinke

Was any alteration made prior or after purchase period? no

Description of building:

	Basement	1st Flr.	2nd Flr.	3rd Flr.	Attic
No. of rooms		4	4	-	-
No. of baths	0	0	2	-	-
No. of Powder Rms.	-	1	0	-	-

Heating: Hot Air ✓ Hot water ___ Baseboard ___

Fired by: Coal ___ Oil ✓ Gas ___

Air conditioning: Built-in ✓ Unit type ___

Porches: Open — Size ___ X ___ Enclosed — Size ___ X ___

Fireplace ✓ Recreation room no Size ___ X ___

Garage: Cars 2 Attached ✓ Detached ___ Built-in ___

Other information: (Please indicate the number of school-age children)

no school age children

Dated October 26, 1968

Signature: Mrs. Marshall L. Johnson

(5)

QUESTIONS TO BE ANSWERED:

Property address 109 Somers Court No. Block 2186A Lot 6.

Name of buyer(s) George C. & Eileen A. Cody

Was this an outright sale? Yes

If no, explain

Was there a family relationship between buyer and seller? No

Was a mortgage assumed? Yes How much? $ 22,091.80

What was the prime consideration? $ 37,000

For land? — For building? —

What was the value of extras? $3,000

Please enumerate items Window Air Conditioners, All Drapes & Curtains & Rods, Storms & Screens, Wall to Wall Carpeting, Dishwasher

Were any unpaid taxes included in purchase price? No

Total amount? $

Name of broker, if any None

Was any alteration made prior or after purchase period? No

Description of building:

	Basement	1st Flr.	2nd Flr.	3rd Flr.	Attic
No. of rooms	One	4	5	—	0
No. of baths	0	0	2	—	—
No. of Powder Rms.	0	1	0	—	—

Heating: Hot Air ✓ Hot water Baseboard

Fired by: Coal Oil Gas ✓

Air conditioning: Built-in Unit type Window

Porches: Open 0 Size X Enclosed 0 Size X

Fireplace 1 Recreation room 1 Size 12 X 14

Garage: Cars 2 Attached ✓ Detached Built-in

Other information: (Please indicate the number of school-age children)

Two - Boy, 15 Yrs Old Girl 12 Yrs Old

Dated 10/6/69

Signature: George C. Cody

(11) Mill 216-5

QUESTIONS TO BE ANSWERED:

Property address 505 Kings Highway Block 216 Lot 5

Name of buyer(s) ROBERT J. & JULIA M. ROUSE

Was this an outright sale? YES

If no, explain

Was there a family relationship between buyer and seller? No

Was a mortgage assumed? No How much? $

What was the prime consideration? $28,500

For land? $8500 For building? $16,475 24975 3525 28500

What was the value of extras? $3525

Please enumerate items WALL TO WALL CARPET, REFRIG. FREEZER, 3 AIR COND TENNA-ROTOR, 3 FANS, DISPOSAL, WASHER & DRYER, INFRA LIGHTS, 2 DESKS, CHAMBERS RANGE, DISHWASHER

Were any unpaid taxes included in purchase price? No

Total amount? $

Name of broker, if any REINKE

Was any alteration made prior or after purchase period? No

Description of building:

	Basement	1st Flr.	2nd Flr.	3rd Flr.	Attic
No. of rooms	1	3	4	0	
No. of baths	1				
No. of Powder Rms.	1				

Heating: Hot Air ____ Hot water ✓ Baseboard ____

Fired by: Coal ____ Oil ✓ Gas ____

Air conditioning: Built-in ____ Unit type ✓

Porches: Open ✓ Size 10' X 12' Enclosed ____ Size ___ X ___

Fireplace ✓ Recreation room ✓ Size 10' X 20'

Garage: Cars 1 Attached ✓ Detached ____ Built-in ____

Other information: (Please indicate the number of school-age children)

NONE

Dated 5/12/69

111

Signature: Robert J. Rouse

(17) Book -

QUESTIONS TO BE ANSWERED:

Property address 127 CHESTNUT ST Block 282A Lot 12

Name of buyer(s) Edward S. and Sally T. Golden

Was this an outright sale? YES

If no, explain

Was there a family relationship between buyer and seller? NO

Was a mortgage assumed? NO (short term mortgage for $30,000 held by prior owner sold personal loan of $20,000) How much? $

What was the prime consideration? $ 47,000

For land? — yes - and — For building?

What was the value of extras? $8000

Please enumerate items 3 air conditioners, all carpeting, Florescent lights, all drapes & curtains & shades, Tiffany Light Fixtures, acoustical ceilings, TV aerial wires, storm windows & screens, plumbing & wiring for laundry, dishwasher jacks & wiring

Were any unpaid taxes included in purchase price? NO

Total amount? $

Name of broker, if any Paul Peinke

Was any alteration made prior or after purchase period? NO

Description of building:

	Basement	1st Flr.	2nd Flr.	3rd Flr. - ✓ -	Attic
No. of rooms	3	5	4	2	1
No. of baths	—	One	3	1	—
No. of Powder Rms.	1	1			

Heating: Hot Air ✓ Hot water ✓ Baseboard

Fired by: Coal Oil ✓ Gas

Air conditioning: Built-in Unit type 3

Porches: Open Terrace Size X Enclosed Size X

Fireplace one Recreation room Size X

Garage: NONE Cars Attached Detached Built-in

Other information: (Please indicate the number of school-age children)

4 children

Dated Aug 12, '69

Signature: Sally T. Golden

(15)

QUESTIONS TO BE ANSWERED:

Property address 409 KENWOOD DRIVE Block 218 Lot 8.

Name of buyer(s) David F. and Judith S. Nerress

Was this an outright sale? Yes

If no, explain

Was there a family relationship between buyer and seller? No

Was a mortgage assumed? No How much? $ —

What was the prime consideration? $ 82,450.00

For land? For building?

What was the value of extras? $1,300.-- 5'x6' mirror;

Please enumerate items refrigerator, Sectrase, carpet, washer & dryer & dishwasher

Were any unpaid taxes included in purchase price? No

Total amount? $ N/A

Name of broker, if any B.T. Edgar & Son

Was any alteration made prior or after purchase period? No

Description of building:

	Basement	1st Flr.	2nd Flr.	3rd Flr.	Attic
No. of rooms	none	seven	none	none	storage space
No. of baths		one & one half			
No. of Powder Rms.		none			

Heating: Hot Air X Hot water Baseboard

Fired by: Coal Oil Gas X

Air conditioning: Built-in X Unit type

Porches: Open Size X Enclosed Size X

Fireplace one Recreation room No Size X

Garage: Cars 2 Attached X Detached Built-in

Other information: (Please indicate the number of school-age children)

none

Dated 8/25/69 113 Signature: David F. Nerress

Property Tax Freeze Association

of Newark, New Jersey

162 BROAD STREET • NEWARK, NEW JERSEY

July 1, 1971

Assemblyman Dickey
Tax Committee Chairman
State House
Trenton, New Jersey

Dear Mr. Dickey:

Our organization wishes to go on record in favor of Assemblyman Fiore's Bill.

I am unable to appear at the hearing, but I would appreciate you putting this in the record.

Respectfully yours,

Ralph M. Caprio

Ralph M. Caprio
President

Property Tax Freeze Association

of Newark, New Jersey

162 BROAD STREET • NEWARK, NEW JERSEY

President
RALPH CAPRIO

Vice-President
ANTHONY PEPE

Treasurer
ANTHONY DI TARANTO

Secretary
ERNEST ORGO

July 1, 1971

RELEASE:

Ralph M. Caprio president of the Property Tax Freeze Association has come out in favor of Assemblymen Fiore's bill that would set rules for reviewing Property Tax Assessments.

This bill which will prohibit the use of a school aid ratio formula in seeking reductions in tax assessments on real property. Instead, it would require that the guide be the assessment value established by the county tax board.

Special interests such as the State Bar Association and Real Estate Boards should realize that the property owners of New Jersey have an unbearable tax burden, and if Fiore's bill does not pass it could mean an increase of over 100 points in our present tax rate.

DIRECTOR'S COMMITTEE TO REVIEW
SALES-ASSESSMENT RATIO
AND EQUALIZATION PROGRAMS

The Director's Committee to Review Sales-Assessment Ratio and Equalization Programs, appointed by you for the purpose of making a full scale review of the Sales-Ratio program which was brought into being through passage of Chapter 86, Laws of 1954, submits herewith its Report and Recommendations.

A BRIEF HISTORY

The Director's Committee to review Sales-Assessment Ratio Equalization Programs was formed at the close of calendar year 1965 to conduct a full scale review of the New Jersey Sales-Ratio Program. In the years since the Sales-Ratio Program had been inaugurated, it had come to be widely recognized as one of the better efforts among State programs of Local Property Tax Equalization. Yet, despite the success, Local Property Tax officials became aware of the existence of certain administrative problems in the operation of the program.

It was with the awareness that these administrative problems existed that this Committee was formed from among state, county, and municipal officials who had been closely associated with the program, and its successes from the beginning. The objective of the Committee was to draw upon its ten years of experience in the equalization field to examine the problems which existed and to make recommendations whereby, a good program could be made even better.

I. Calendar Year Sales Sampling Method

The State of New Jersey's Sales-Ratio Tables are prepared, currently, on the basis of a fiscal year sales sampling period. That is, the sales assessment ratios are developed from sales which occur during a twelve month period extending from July 1 of one year through June 30 of the next year. Thus, since tax books are maintained on a calendar year basis, sales which occur during each of the six month halves of the fiscal year sampling period are compared with assessments from the tax books for two different tax years.

Almost since the inception of the Sales-Ratio program, a technical discussion of some scope has continued among specialists in the property tax field regarding which of two methods for sampling sales data, the fiscal or calendar year method, is better in terms of the accuracy of the results, the needs of the counties and municipalities, and the obligations, both administrative and technical, of the Division of Taxation. The proponents of each of the statistical methods agree that there is merit in both methods; yet, each holds that the method which they propose is better in the aggregate.

Thus, the Committee, in considering the merits of the two methods, was required to make a value judgment in a situation where an absolutely clear-cut, mutually exclusive decision was not possible. The Committee knew that the fiscal year method had been used with good results since the program's inception; yet, the Committee was also aware that even good results can be improved upon. Considering all essential criteria then, the Committee heard, analyzed and sifted all of the arguments presented by the proponents of the two statistical methods.

Among the points of view presented, the advocates of the fiscal year sales sampling method argued that a major advantage of this method is that the data from which the Director's Table is prepared are more current at the time of promulgation than they would be if the calendar year method were to be employed. When the fiscal year method is used, the sales data are accumulated until three months prior to the promulgation of the Director's Table on October 1 of each year, whereas, the sales data will be nine months old if the calendar year method is to be used.

In reply to the objection over the age of the data raised by the fiscal year people, the calendar year group points out that the attempt to use the welter of sales data which is accumulated at a date so near to the obligatory date for the issuance of the Director's Table makes proper administrative screening of the sales data difficult, at best. The attempt to use sales data which is of too recent vintage may actually impede the production of an excellent table which, of course, can only be compiled from reliable, adequately screened data, they argue

Further, the calendar year group argues that the time gained for the compilation of the table by use of its method will enable the Division's personnel to do a much more thorough job of screening those complex sales involving apartment houses, motels, and industrial and commercial properties.

In addition, they argue that the calendar year method will allow for sufficient time for changes to be made to the ratable structure if the changes are certified to the Local Property Tax Bureau by the County Board on form SR3A.

In addition to each of the foregoing benefits, the calendar year group points out that if the additional time is made available the Local Property Tax Bureau will be in the position to produce a Preliminary Table of Equalized Valuations containing Class Ratios, District Weighted Ratios, and True Values. The Preliminary Table will provide the opportunity for all concerned officials to file informal appeals on forms SR6, thereby relieving tax districts of the necessity to file the more difficult and cumbersome formal appeals. (The Committee's deliberations and conclusions on the Preliminary Table are discussed more fully in Part IV of this Report.)

A major argument of the calendar year method's proponents is that otherwise valid sales are lost for statistical purposes in the preparation of the Director's Table when a revaluation program is undertaken by a taxing district as the result of the application of non-usable category number 27 (See list included with Part VI of this Report). The reason that sales are lost when a taxing district undertakes a reassessment or revaluation program is that sample sales must be restricted to that half year during which the new assessment levels apply. Obviously, this occurs because the sales data relate to the fiscal year, whereas the true tax valuation figures relate to the calendar year. The loss of sales data is of especial import in smaller districts where the sample is naturally small because of the limited number of sales which occur. The calendar year group concludes that the statistical reliability of the table is reduced as a result of the loss of sample sales.

An item of primary importance considered by the Committee was the validity of the currently employed School Aid Formulas. The current formula, based on fiscal year sampling methods, has been tested and approved all the way through the State's Supreme Court. For the implementation of the calendar year sampling method, a new formula must be devised and it will, in all likelihood, require testing in the courts, over several years, before becoming fully accepted.

In addition, some members of the Committee were unconvinced that the use of calendar year sampling methods, with all of the additional screening time would, in actuality, produce any more reliable data. Further, they were unconvinced that the use of calendar year sampling methods would result in fewer formal appeals than the currently extant 8 to 10%, even granted the extra time for informal appeals.

One final point considered by the Committee was a study done within the Local Property Tax Bureau which indicated, at least in the years studied, that a statistical loss of non-usable category number 27 does not affect, necessarily, the validity of the sales data. For example, an analysis of a comparison of true values between 1962 and 1963 indicated that 47 of the 150 districts that had revalued or reassessed (i.e. 31%) had a change in true value in excess of 10%, and that 130 of the 417 districts that had not revalued or reassessed (i.e. 31%) had a change in true value in excess of 10%. The study also included figures for 1964 and 1965 which showed that 73 of the 224 districts that had revalued or reassessed (i.e. 33%) had a change in true value in excess of 10% and that 110 of the 343 districts that had not revalued or reassessed (i.e. 32%) had a change in true value in excess of 10%. On

the basis of these figures, some Committee members concluded that the loss of non-usable category number 27 sales data does not affect the validity of the sales ratio study.

The Committee noted that some problems might occur during the period of changeover from the fiscal to the calendar year method. To overcome a possible major objection, a method for handling this changeover period was developed, as follows:

1. In the first year of implementation, the true value will become the latest true value promulgated prior to the changeover, adjusted to reflect added and omitted assessments. The assessment ratio will become the percentage which is derived by dividing the current assessed value (SR3) by the true value which is thus derived.
2. During the second year under the program, a new true value will have been calculated from sales ratio data compiled during a full calendar year. This new true value will be adjusted to reflect added and omitted assessments and will be averaged with the true value which will have been promulgated during the preceding year. The assessment ratio promulgated for this second year will be derived by dividing the current assessed value (SR3) by the averaged true value, as indicated above.
3. During the third year under the program, the second year approach will be repeated in its entirety. Thus, the table will never come to a point where one year is dropped and one added. Instead, it will contain a diminishing element of running average which should have the effect of dampening extreme or abrupt fluctuations.

4. Such an approach will make it unnecessary to distinguish between revalued and non-revalued districts. Also, it will assure that current assessment practices will be reflected by reference to SR3 data for each current year. It will be unnecessary to drop sample sales from consideration because of a revaluation.

After careful deliberations and considerable study, the Committee concluded that the calendar year method for the sampling of real estate sales for the State's Sales-Ratio program will better serve the needs of the individual taxing districts, the county tax boards, and the Division of Taxation.

Therefore, the Committee recommends that the Director of Taxation adopt the calendar year method for computing assessment ratios and true values of real property, for the State of New Jersey, as required by the State School Aid Act, Chapter 85, Laws of 1954.

II. PROPOSED REVISION OF THE SR1-A FORM

During the past several years, indications of a need for a revision of the SR1-A Form (in use since 1957) have been observed by its users. A major revision became necessary as a result of the Farmland Assessment Act to provide for the recognition of 3A-Regular and 3B-Qualified farmland categories.

Among other changes to be incorporated within the revised Form SR1-A is the addition of ZIP code information to comply with postal regulations.

Each of the changes in the Form SR1-A is described below. Following the descriptive material are copies of the five (5) part Form SR1-A in current use and pictures (blown up in size) of the changed page and the additions which are proposed for the reverse side of the State's and the Assessor's copies. Please examine and compare these pages on both the current and proposed form carefully in relationship to the text.

1. The addition of a code number for both county and district to facilitate data processing operations.
2. The addition of a space for the name and mailing address of the attorney who filed the deed, or whose name appeared on the deed when filed with the county clerk, to facilitate questionnaire mailing procedures.
3. The addition of the words "Zip Code," where required, in the mailing address of the grantor, grantee, and attorney to facilitate our compliance with postal regulations.
4. A space headed "SECTOR" to be added to allow machine sales listings to be made in groups of sales, representing economic trends in homogeneous geographical areas, within a taxing district. The value of such a device in the maintenance

of assessments is obvious.

It should be noted that this approach to using sales data in the appraisal process is endorsed by the Commission on Intergovernmental Relations.

5. Under Property Classification, the categories 3a-Farm (Regular) and 3b-Farm (Qualified) were added to replace category 3-Farm, to reflect provisions of the Farmland Assessment Act.

6. Space headed SPECIFIC PROPERTY USE to be added. This information will be invaluable in expediting screening operations in both the office and the field.

7. The addition of a ZIP CODE notation in the address of property area.

8. Two spaces have been alloted for the assessed value of the property sold:

   a. Assessed Value (except Farm 3B-Qualified). The information to be inserted in these spaces is exactly the same as that called for on the non-revised SR1-A form. The assessed values for (1). Vacant Land, (2). Residential, (3). 3A-Farm (Regular), (4). 4a-Commercial, (5). 4b-Industrial, and (6). 4c-Apartment will be inserted in this space.

   b. Assessed Value (Farm 3B-Qualified and Number of Acres for 3A and 3B).

      This is an addition to the SR1-A form. This space is to be used by the assessor for inserting the assessed values for the 3B under the provisions of the Farmland Assessment Act. It will serve the assessor in verifying the assessment of a 3-B Qualified Farm and the amount of roll-back taxes chargeable

when the farm is sold for a use other than agricultural or horticultural. This information will also serve the Division of Taxation in supplying, to those concerned, assessed value, acreage, and sales price per acre for all farms that are sold (both 3A-Regular and 3B-Qualified).

9. A new space has been alloted for land data information. Inserting the size of plot assessed, the size of plot sold, and the standard lot depth on the revised SR1-A will serve several purposes, among them:

   a. It will alert the assessor, as well as the Bureau, to subdivisions and split-offs.

   b. It will provide the assessor with information essential to an up to date file of comparable sales.

In addition, the proposed revisions would include the imprinting on the reverse side of the State's and the Assessor's copies of the SR1-A as follows:

1. The reverse side of the white copy (Division's) of the SR1-A form will be imprinted, tumble fashion, with a verification check list to be used only by the field staff. The check list will serve as a means of communication between office evaluators and the field staff.

   The printing of a check list on the reverse side of the white copy will serve, also, to remind field staff members, when investigating a sale, of many of the twenty-seven non-usable categories. And further, it will serve as a reminder to gather specific information concerning questions of zoning, property improvement and personal property which have a bearing on the

selling price of the property.

2. The reverse side of the pink copy (Assessor's) of the SR1-A form provides an area wherein the assessor can record much pertinent sales data because there is no tool in the hands of the assessor more important to maintenance of assessment rolls than a good, comparable sale file. Since most assessors in New Jersey do not take full advantage of the sales data available to them as a result of the sales ratio program, it is hoped that by providing this additional space for sales data, which is essential to a file of comparable sales, more assessors will make effective use of it in maintaining their assessment rolls. Again, it should be noted that the Commission on Intergovernmental Relations urged that more effective use be made of the by-products of sales-assessment ratio programs.

After full deliberation, the Committee recommends that the suggested revisions to the Form SR1-A be made and the new form SR1-A, which results, be adopted.

INSTRUCTIONS:

1. COUNTY TAX BOARD - FILL IN SECTION ONE; REMOVE BOTTOM COPY AND CARBON ONLY. SEND BALANCE OF SET, INTACT, TO ASSESSOR'S OFFICE.
2. ASSESSOR - FILL IN SECTION TWO, REMOVE BOTTOM COPY AND CARBON ONLY. RETURN BALANCE OF SET, INTACT, TO COUNTY TAX BOARD.
3. COUNTY TAX BOARD - REMOVE BOTTOM COPY AND CARBON ONLY. SEND BALANCE OF SET, INTACT, TO LOCAL PROPERTY TAX BUREAU, 219 W. STATE ST., TRENTON, N. J.

9-57 210M

219 W. STATE ST.
TRENTON, N. J.

DIVISION OF TAXATION
STATE OF NEW JERSEY
LOCAL PROPERTY TAX BUREAU

FORM NO. SRI-A

SECTION ONE

DATE	COUNTY	DISTRICT

DEED REGISTRATION

BOOK	PAGE	DEED DATE	DATE RECORDED	STAMPS	PRICE	☐ ACTUAL ☐ COMPUTED

GRANTOR — ADDRESS

GRANTEE — ADDRESS

SECTION TWO

MAP & TAX BOOK DESCRIPTION				PROPERTY CLASSIFICATION					
BLOCK	LOT	PAGE	LINE	1 VACANT LAND	2 RESIDENTIAL	3 FARM	4A COMMERCIAL	4B INDUSTRIAL	4C APARTMENT

ASSESSED VALUE

YEAR	LAND	BUILDINGS	TOTAL

ADDRESS OF PROPERTY

REMARKS:

FOR USE ONLY BY LOCAL PROPERTY TAX BUREAU

USABLE — YES ☐ NO ☐ TO VERIFY ☐ QUESTIONNAIRE ☐

	TOTAL SALES PRICE	MORTGAGE	FOR CHATTELS
CHECK			

REMARKS:

SECTION THREE

VERIFIED BY: DATE

REMARKS: SALES PRICE

USE REVERSE SIDE FOR ADDITIONAL REMARKS

USABLE YES	USABLE NO	N	E	C	I	P	V			
☐	☐									

SERIAL NO.

RATIO

DIVISION OF TAXATION-FILE COPY

314 E. STATE ST.
TRENTON, N.J.

DIVISION OF TAXATION
STATE OF NEW JERSEY
LOCAL PROPERTY TAX BUREAU

FORM NO. SR1-A

SECTION ONE

DATE	COUNTY & CODE NO.	DISTRICT & CODE NO.

DEED REGISTRATION

BOOK	PAGE	DEED DATE	DATE RECORDED	STAMPS	PRICE	☐ ACTUAL ☐ COMPUTED

GRANTOR: MAILING ADDRESS ZIP CODE

GRANTEE: MAILING ADDRESS ZIP CODE

ATTORNEY: MAILING ADDRESS ZIP CODE

MAP & TAX BOOK DESCRIPTION

BLOCK (S)	LOT (S)	PAGE	LINE	SECTOR

PROPERTY CLASSIFICATION

1 VACANT LAND	2 RESIDENTIAL	3A FARM-REGULAR	3B FARM-QUALIFIED	4A COMMERCIAL	4B INDUSTRIAL	4C APARTMENT

ADDRESS OF PROPERTY

ZIP CODE

SPECIFIC PROPERTY USE

SECTION TWO

ASSESSED VALUE (EXCEPT FARM 3B QUALIFIED)

YEAR	LAND	BUILDINGS	TOTAL

ASSESSED VALUE (FARM 3B QUALIFIED) | NUMBER OF ACRES

YEAR	ASSESSMENT	3A REGULAR	3B QUALIFIED

LAND DATA

SIZE of PARCEL ASSESSED	SIZE of PARCEL SOLD	STANDARD LOT DEPTH

FOR ASSESSORS REMARKS:

VERIFY

SECTION THREE

USABLE	PROCESSED	VERIFICATION		SALES PRICE
☐ YES	☐ KEY PUNCHED	☐ ACTUAL	☐ FIELD INVEST.	
☐ NO	☐ KEY VERIFIED	☐ COMPUTED	☐ QUESTIONNAIRE	
SIGNATURE		RATIO		SERIAL NO.

DIVISION OF TAXATION-FILE COPY

SRI-A VERIFICATION CHECK LIST

Contract Sale	☐ Yes	☐ No	Split-off	☐ Yes	☐ No
Quit-claim	☐ Yes	☐ No	Related Interest	☐ Yes	☐ No
Executor	☐ Yes	☐ No	Receiver	☐ Yes	☐ No
Cemetery Lot	☐ Yes	☐ No	Exempt Buyer-Seller	☐ Yes	☐ No
Government Agent	☐ Yes	☐ No	Easement or R.O.W.	☐ Yes	☐ No
Undivided Interest	☐ Yes	☐ No	Convenience Deed	☐ Yes	☐ No
Sheriff Sale	☐ Yes	☐ No	Accrued Taxes	☐ Yes	☐ No
Tax Sale	☐ Yes	☐ No	Court Order	☐ Yes	☐ No
Distress Sale	☐ Yes	☐ No	Assessed in Two Districts	☐ Yes	☐ No
Trade	☐ Yes	☐ No	Forced Sale	☐ Yes	☐ No

PROPERTY IMPROVED SINCE ASSESSMENT ☐ Yes ☐ No

Date of Imp. _____ Cost _____

Nature of Imp. _____

ZONING CHANGE ☐ Yes ☐ No

Date Variance Granted _____

Sale Conditional Upon _____

PERSONAL PROPERTY INCLUDED IN SALE ☐ Yes ☐ No

License _____ Goodwill _____ Inv. _____ Mach. _____

Furn. _____ Other _____ No Breakdown _____

CONSIDERATION

Cash _____ Mtg. (s) _____ Total _____

☐ Usable _____ ☐ Non-Usable _____

SOURCE OF INFORMATION

REMARKS: _____

Date _____ Signed _____

REVERSE SIDE of DIV. OF TAXATION COPY (WHITE)

LAND DATA

PLOT SKETCH

PLOT SIZE

TOPOGRAPHY

UTILITIES

ZONING

OBSOLESCENCE

REMARKS:

SALE ANALYSIS

SALES PRICE PER FRONT FOOT:

SALES PRICE PER SQUARE FOOT:

SALES PRICE PER ACRE:

OTHER:

IMPROVEMENT DATA

FUNCTIONAL UTILITY

STRUCTURAL FRAME

EXTERIOR WALL	STORIES
AGE	CONDITION
APARTMENTS	ROOMS
No. OF BATHS	HEAT
STORES	ELEVATORS

GROUND FLOOR AREA

TOTAL FLOOR AREA

PERCENT OFFICE SPACE

OTHER IMPROVEMENTS

BUILDING SKETCH

INCOME DATA

GROSS INCOME

NET INCOME

INCLUDED IN RENT

- ☐ GAS
- ☐ HEAT
- ☐ ELECTRIC
- ☐ AIR CONDITIONING
- ☐ WATER
- ☐ FURNISHINGS

SALE ANALYSIS

SALES PRICE PER RENTAL UNIT:

SALES PRICE PER ROOM:

SALES PRICE PER SQUARE FOOT OF BUILDING GROUND AREA:

SALES PRICE PER SQUARE FOOT OF BUILDING TOTAL AREA:

INDICATED GROSS RENT MULTIPLIER:

EMARKS:

REVERSE SIDE of ASSESSOR'S COPY (PINK)

III. SR1-A PROCESSING - EIGHT WEEK SCHEDULE

The SR1-A form is designed to summarize the sales data from the deed abstract which is filed by the County Clerk with the Board of Taxation for each real estate sales transaction which is recorded in the Clerk's office. Ultimately, it is the sales data information, as recorded on the SR1-A form, which becomes the raw material for the Equalization Tables which are prepared as part of the State Tax Equalization program.

The Equalization Program is the essential basis upon which State School Aid funds are disbursed by the Commissioner of Education to school districts throughout the state. In addition, the Equalization Tables are used as the basis for apportioning county government costs among their constituent municipalities.

It is obvious that the raw material from which the Equalization Tables are prepared, if the highest degree of equitability in the distribution of funds is to be maintained, must be supplied on a uniformly current basis. The Committee, recognizing that various practices obtain in different counties which mitigate against the desired uniformity in flow of information, discussed the various ways and means by which the Equalization Tables can be maintained at the highest level of utility and equitibility. In considering this problem the Committee reflected upon methods to which all persons concerned with the entering and transmitting of the raw data must adhere in order to insure the optimum accuracy and timeliness of the table.

Along this line, the Committee decided to recommend the establishment of a rigid time schedule for the flow of the SR1-A forms from the County Boards of Taxation to the assessors, and thence, back through the County

Boards to the Local Property Tax Bureau. The Committee noted that the time schedule, which they recommend be adopted, would require some special attention in the area of enforcement. Yet the Committee does, most emphatically, recommend that the eight-week maximum time-table, presented below, be adopted.

Eight Week Schedule

1. Abstract of deed (2 copies)* from the recording officer in the County Clerk's office to the County Tax Board, two (2) weeks.
2. County Tax Board to complete Part I of the form and forward it to the assessor, two (2) weeks.
3. Assessor's investigation and processing three (3) weeks.
4. County Tax Board, processing and delivery to the Local Property Tax Bureau, one (1) week.

*Previously, the County Clerk was required to send only one copy of the abstract of deed to the Board of Taxation. To have two copies sent may require legislation, if so, the Committee recommends that it be initiated.

IV. PRELIMINARY TABLE OF EQUALIZED VALUE

Throughout the year the Division of Taxation proceeds with the gathering of statistical information for use in the preparation of the Director's Table. As SR1-A forms are received, they are screened, and then the sales assessment data is entered upon punch cards for use by data processing equipment. The sales samples, for use in the preparation of the table, are accumulated on a continuous basis from the steady flow of SR1-A information to the Division of Taxation.

To keep local assessors aware of the transactions which are being accumulated for use in the Equalization Table, the Division of Taxation has developed the practice of sending Interim Grantor Listings (lists of these transactions) to them for their scrutiny. In addition to providing greater accuracy and reliability, this procedure protects the assessor against crash programs of SR1-A examinations at the time of the issuance of the Equalization Table.

The readily usable real estate market data which can be used by the assessor in appraising properties of a like kind and location is an important by-product of the grantor listings. Because of this important by-product, the Committee recommended that the listings be provided in block and lot sequence to make them even more useful for comparative purposes. This last recommendation is now being carried out.

In connection with the grantor listings, the assessor needs a method whereby he can appeal transactions which should be treated differently, or, for which, valuations are not properly stated. Form SR-6 is the means by which the assessor can seek such changes in the data as are shown to

him on the grantor listings. If the assessor examines the grantor listings immediately upon receiving them, and submits form SR-6 where corrections are necessary, he will avoid all the last minute pressure and confusion which are attendant to attempts at correction after the Director's Table of Equalized Valuations has been promulgated.

To further protect the assessors from crash programs, the Committee recommends that a Preliminary Table of Equalized Values be published by the Division of Taxation on, or before, July 1 of each tax year which shall include all the sales which will be considered in formulating the final table. The Committee felt that a preliminary table would alert the assessor to the effect of the SR1-A's upon the tax picture in his district in sufficient time to enable him to re-examine the grantor listings and, as a result, file, informally, any forms SR-6 which he might feel to be justified. In addition, the County Boards could review and forward any recommendation for correction to the Local Property Tax Bureau for consideration.

In relation to the preliminary table, the Committee recommends that a closing date of August 15 be established for the filing of any form SR-6, petition for revision. Forms SR-6 will be accepted after this closing date only at the discretion of the Director whose decision will be based upon the merits of the particular case.

In connection with this entire procedure, assessors are cautioned that after October 1, appeals can be made only to the Division of Tax Appeals.

V. STATISTICAL METHODS, PROCEDURES AND STANDARDS

Weighted Versus Unweighted Ratios

Implementation of Chapter 51, Laws of 1960 with its "common level" provisions emphasized the fact that more than one average can be derived from a single sample. In contrast to the "weighted average" which has been the basis for equalization ratios throughout the New Jersey equalization program, the "common level" is described as the unweighted average ratio. The fact that these two averages of the same data yield different results has been the source of some confusion concerning the choice of average to use.

In its broadest sense an average is nothing more than a single experience derived from a number of experiences and used to represent the general character of all experiences. Whatever words may be used to describe it--such as common, typical, usual, normal--the average is a measure of the central tendency of experiences which vary among themselves and, thus, vary from the average used to represent them. Every description is, in some sense, an average in that it generalizes information in a form to be communicated, understood, or acted upon. Consider, for example, the way averages underlie such ordinary concepts as normal temperature, amount of rainfall, profits from sales, wage rates, and automobile speed, among others. Each of these concepts is based upon a condensation of a mass of data to a single figure or a single measure.

There are several different kinds of averages and each has its own meaning and use. The choice among averaging methods depends upon what it is that is to be expressed. For example, the equalization table, prepared

annually by the New Jersey Division of Taxation, has as its purpose the approximation of "full" or market value of all taxable real estate within each taxing district. The weighted average is superior to other averaging methods for this purpose because it provides an average ratio capable of indicating the total market value represented by total assessed values for any given sample of properties. This will be true regardless of how varied their individual assessment ratios may be. None of the other averaging methods can yield this result under all circumstances.

If our purpose is to bring all property assessments to a common level (defined as one capable of maintaining aggregate assessed values unchanged, as equalization occurs), the weighted mean is the only satisfactory average. For purposes of the New Jersey annual equalization table, additional assurance of reliability is accomplished by developing the weighted average separately for each of four classes of property. Full or equalized (market) values are estimated separately for each class of property on the basis of total assessed values and the weighted average assessment ratio. Composite full or equalized (market) values are derived as the sum of the four separate calculations. The composite, or overall average assessment ratio, represents the percentage of total assessed to total estimated full or equalized (market) values. The composite average is thus weighted not only by the value of properties within the sample of observations, but also, by the value of comparable properties within the entire assessment roll. Such weighting, thus, takes into account variations in sample coverage for each class of property as well as variations in property values.

The Committee, after lengthy deliberations regarding the two averaging methods, concluded that the use of weighted averages was more appropriate to obtain the approximation of "full" or market value of all taxable real

estate within each taxing district which is required for an equitable Equalization Table. The Committee felt that no other averaging method could yield as meaningful as a result under all circumstances.

For the foregoing reasons, the Committee recommends the continuance of the currently employed statistical methods, whereby sales-ratio figures for the Equalization Table are developed through the use of weighted averages.

VI. CATEGORIES OF NON-USABLE DEED TRANSACTIONS

The Director's Table cannot be qualitatively better than the sales transactions upon which it rests. For this reason, sales which cannot be deemed to meet the "market value" test of a sale between a willing buyer and a willing seller should not be included in the statistical base upon which the table rests.

Appended, hereto, is a list of 27 deed transactions which are deemed to be non-usable for purposes of the Equalization Program. They are established pursuant to Chapter 86, Laws of 1954 (N.J.S.A. 54:1-25.1 et. seq.). The transactions described do not fall within the concept of a sale between a buyer willing, but not obliged to buy, and a seller willing, but not obliged to sell.

The entire list of non-usable categories was reviewed by the Committee. The application of categories #6 and #26 to split-offs, assemblages, and assessments under the "Freeze Act" was reviewed. However, a sub-committee, in studying the question, feared that the enumeration in these categories of specific examples of non-usability would result in an unlimited expansion of the non-usable categories. For this reason, no changes are recommended in these categories.

The Committee does recommend that two of the categories, specifically #18 and #20, be changed to read as follows:

No. 18. Transfer to banks, insurance companies, savings and loan associations, mortgage companies, OR ANY OTHER LIEN HOLDER when the transfer is made in lieu of foreclosure.

No. 20. Acquisitions, RESALE OR TRANSFER by railroads, pipeline companies or other public utility corporations for right-of-way purposes.

N.B.-The words in block capitals are the additions to the categories as presently written.

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
LOCAL PROPERTY TAX BUREAU
TRENTON 25, NEW JERSEY

CATEGORIES OF NON-USABLE DEED TRANSACTIONS

July 1, 1958 (Revised)

The deed transaction of the following categories are not usable in determining assessment-sales ratios pursuant to Chapter 86, Laws of 1954 (N.J.S.A. 54:1-35.1 et. seq.).

1. Sales between members of the immediate family.

2. Sales in which "love and affection" are stated to be part of the consideration.

3. Sales between a corporation and its stockholder, its subsidiary, its affiliate or another corporation whose stock is in the same ownership.

4. Transfers of convenience; for example, for the sole purpose of correcting defects in title, a transfer by a husband either through a third party or directly to himself and his wife for the purpose of creating a tenancy by the entirety, etc.

5. Transfer deemed not to have taken place within the sampling period. Sampling period is defined as the period from July 1, to June 30, inclusive, preceding the date of promulgation, except as hereinafter stated. The recording date of the deed within this period is the determining date since it is the date of official record. Where the date of deed or date of formal sales agreement occurred prior to January 1, next preceding the commencement date of the sampling period, the sale shall be non-usable.

6. Sales of property conveying only a portion of the assessed unit, usually referred to as apportionments, split-offs or cut-offs; for example, a parcel sold out of a larger tract where the assessment is for the larger tract.

7. Sales of property substantially improved subsequent to assessment and prior to the sale thereof.

8. Sales of an undivided interest in real property.

9. Tax sales.

10. Sales by guardians, trustees, executors and administrators.

11. Judicial sales such as partition sales.

12. Sheriff's sales.

13. Sales in proceedings in bankruptcy, receivership or assignment for the benefit of creditors and dissolution or liquidation sales.

14. Quit-claim deeds.

15. Sales to or from the United States of America, the State of New Jersey, and/or any political subdivision of the State of New Jersey; including boards of education and public authorities.

16. Sales of property assessed in more than one taxing district.

17. Sales to or from any charitable, religious or benevolent organization.

18. Transfers to banks, insurance companies, savings and loan associations, mortgage companies, when the transfer is made in lieu of foreclosure.

19. Sales where purchaser assumes more than two years of accrued taxes.

20. Acquisitions by railroads, pipeline companies or other public utility corporations for right-of-way purposes.

21. Sales of cemetery lots.

22. Transfers of property in exchange for other real estate, stocks, bonds, or other personal property.

23. Sales of commercial or industrial real property which include machinery, fixtures, equipment, inventories, goodwill when the values of such items are indeterminable.

24. Sales of property, the value of which has been materially influenced by zoning changes where the latter are not reflected in current assessments.

25. Transactions in which only 55¢ in revenue stamps are affixed to the conveyance unless the actual consideration has been determined.

26. Sales which for some reason other than specified in the enumerated categories are not deemed to be a transaction between a willing buyer, not compelled to buy, and a willing seller, not compelled to sell.

27. Sales occurring within the sampling period but prior to a change in assessment practice resulting from the completion of a recognized revaluation or reassessment program; i.e. sales recorded during the period July 1 to December 31 next preceding the tax year in which the result of such revaluation or reassessment program is placed on the tax roll.

Transfers of the foregoing nature should generally be excluded but may be used if after full investigation it clearly appears that the transaction was a sale between a willing buyer, not compelled to buy, and a willing seller, not compelled to sell, and that it meets all other requisites of a usable sale.

THIS LIST SUPERSEDES THE PREVIOUS LIST OF "NON-USABLE DEED TRANSACTIONS" OF JULY 1, 1957.