



# Appeals of Property Tax Assessments in Montgomery County

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OLO Report Number 2014-8

June 17, 2014

## Executive Summary

Owners of real property in Maryland pay property tax each year based on the value of the property. The Maryland State Department of Assessments and Taxation (SDAT) determines the value of all property in Maryland once every three years. The assessment is based on a property's "market value" or "the most probable price which a property will sell for under normal market conditions" and is subject to appeal by the property owner, another taxpayer, or a local government. This report examines appeals of property assessments in Montgomery County from 2011 through 2013.

### Montgomery County Property Types

Residential property makes up 92% of properties of the approximately 335,000 parcels of property in Montgomery County and accounts for 78% of the total assessed value of all property. Commercial property makes up an additional 3% of County properties and 21% of the total assessed value.

### SDAT in Montgomery County

The State Department of Assessments and Taxation maintains an office in each county. Montgomery County's SDAT office has approximately 50 positions, with 22 assessors in the field as of January 2014. Prior to the recent recession, SDAT's Montgomery County office had as many as 90 positions.

**Number and Assessed Value of Montgomery County Property, as of July 1, 2013 (\$ billions)**

Property Class	# of Properties	Total Assessed Value
<b>Residential</b>		
Residential	243,507	\$113.5
Condominiums	61,899	\$12.5
<b>Commercial</b>		
Commercial	4,237	\$17.5
Commercial Condominiums	3,253	\$3.1
Apartments	1,629	\$7.7
Industrial	1,441	\$5.9
Country Clubs	44	\$0.1
<b>All Other</b>		
Agricultural	2,025	\$0.6
Other	165	\$0.3
<b>TOTAL</b>	<b>334,945</b>	<b>\$161.3 billion</b>

Additionally, in FY11 the State began requiring all counties to fund a portion of the cost of operating local SDAT offices – 90% of costs in FY11 through FY13 and 50% of costs in FY14 and beyond. Montgomery County's FY15 Operating Budget includes \$3.5 million for SDAT reimbursement.

A December 2013 report from the State Department of Legislative Services' Office of Legislative Audits highlights the impact of diminishing resources for local SDAT offices – finding that SDAT did not perform physical inspections of all properties, as required by State law. SDAT agreed while noting that it does not have the resources to employ enough assessors to comply with the physical inspection requirement. Feedback from County Government and private sector representatives corroborate the perception that diminished resources and reduced staff have impacted the Montgomery County SDAT office.

### Tax Assessment Appeals for Properties in Montgomery County – 2011-2013

In the year that a property is assessed, any taxpayer (not just a property owner), County, municipal corporation, or the Attorney General can appeal the value of an assessment by filing a written appeal within 45 days of the date of the Notice of Assessment. In the next two years when a property is not assessed, only the property owner can appeal the assessment.

There are three administrative levels for appeal of a real property assessment:

- The County Supervisor of Assessments where the property is located,
- The Property Tax Assessment Appeals Board (PTAAB) located in each county, and
- Maryland Tax Court (a quasi-judicial administrative unit of State government).

13,495 appeals were filed with the Montgomery County Supervisor or Assessments (the first level of appeal) from 2011 to 2013 – 4,116 commercial appeals and 9,725 residential appeals. These appeals were for 12,000 individual property accounts, representing around 4% of all properties in the County. The appeals represented 21% of the total assessed value of County properties – \$33.3 billion.

Commercial property assessments were substantially more likely to be appealed than residential assessments – with appeals for 39 out of every 100 commercial properties. This equated to an appeal of \$79 for every \$100 in commercial property value. By contrast, only three out of every 100 residential property assessments were appealed – or \$5 for every \$100 in residential property value.

**Number of Appeals per 100 Properties/  
Comparison of Appealed to Total Value, 2011-2013**

Property Class	Ratio of Appeals per 100 Properties	Ratio of Appealed Value to Total Value
Residential	3/100	\$5/\$100
Commercial	39/100	\$79/\$100
All Other	4/100	\$24/\$100
<b>TOTAL</b>	<b>4/100</b>	<b>\$21/\$100</b>

**Tax Assessment Appeals Results, 2011-2013**

**SDAT Assessment Changes for Montgomery County  
Tax Assessment Appeals, 2011-2013**

Property Class	% of Assessments Changed		Total Net Decrease in Assessed Value (\$ billions)
	Decreased	Increased	
Residential	37%	0.4%	\$0.4
Commercial	28%	2.2%	\$1.6
Other	35%	--	<\$1
<b>TOTAL</b>	<b>34%</b>	<b>0.9%</b>	<b>\$2.1 billion</b>

The overwhelming majority of SDAT changes to property assessments were assessment decreases, resulting in a cumulative \$2.1 billion decrease in total assessed property value. Commercial properties accounted for over 80% of the value of all appeals filed and 78% of the change in assessment value.

**Number of Appeals per 100 Properties and Average Dollar Change, by Quartile, 2011-2013**

OLO divided commercial and residential properties into four equal groups to compare appeals across property values. The 1<sup>st</sup> quartile contains the lowest-valued properties and the 4<sup>th</sup> quartile contains the highest.

42% of commercial appeals and 36% of residential appeals were for the highest-valued properties. However, appeals of higher-valued commercial properties were more common (65 appeals for every 100 properties) than of higher-valued residential properties (5 appeals for every 100 properties).

Quartile	Range of Assessed Values	Ratio of Appeals per 100 Properties	Average \$ Change in Individual Assessments
<b>Commercial – 2,698 properties per quartile</b>			
1 <sup>st</sup>	Up to \$185,650	23/100	\$19,768
2 <sup>nd</sup>	\$185,651 to \$441,800	35/100	\$53,640
3 <sup>rd</sup>	\$441,801 to \$1,636,500	30/100	\$381,139
4 <sup>th</sup>	Over \$1,636,500	65/100	\$2,856,357
<b>Total Commercial</b>		<b>38/100</b>	<b>\$1,387,600</b>
<b>Residential – 76,655 properties per quartile</b>			
1 <sup>st</sup>	Up to \$230,000	3/100	\$33,802
2 <sup>nd</sup>	\$230,001 to \$338,900	2/100	\$43,630
3 <sup>rd</sup>	\$338,901 to \$524,900	3/100	\$44,589
4 <sup>th</sup>	Over \$524,900	5/100	\$226,420
<b>Total Residential</b>		<b>3/100</b>	<b>\$120,911</b>

## Tax Assessment Appeals Filed by Montgomery County Government

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The Director of Finance is required to “protect the public interest” by appealing inaccurate property assessments, intervening in appeals, and taking other appropriate actions to review and challenge inaccurate assessments. Finance staff review new property assessments annually to identify ones for appeal. The Department only appeals an assessment (1) when a property has sold within the previous assessment cycle and (2) when the property sales price is \$300,000 or more than the assessed value.

Between 2011 and 2013, the Department of Finance filed 197 appeals – 111 of commercial property assessments, 81 appeals of residential property assessments, and five appeals of agricultural property assessments. Seventy-six appeals are complete and nearly 60% of completed appeals resulted in assessment increases. Appeals of commercial assessments led to a net assessment increase of \$173.3 million, and appeals of residential assessments led to a net assessment increase of \$18.7 million.

### Results of Completed Appeals Filed by the Department of Finance, 2011-2013

Property Class	Appealed Value (\$ millions)	% of Assessments Increased	Net Assessment Increase (\$ millions)
Commercial	\$378.2	53%	\$173.3
Residential	\$36.0	76%	\$18.7
<b>TOTAL</b>	<b>\$414.2</b>	<b>59%</b>	<b>\$192.0</b>

## Office of Legislative Oversight's Recommended Discussion Issues

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### Issue #1: The Department of Finance's practices related to appeals of commercial property assessments.

OLO recommends that the Council discuss with the Chief Administrative Officer and the Director of Finance the potential costs and benefits of expanding the County's role in the appeals process for high-valued commercial properties.

- Does the County review successful appeals of high-value commercial property that received decreases in assessments to examine whether staff felt those decreases were warranted?
- Should the County regularly evaluate appeals of high-valued properties when they occur to determine whether to intervene?

### Issue #2: The review, assessment, and appeals of the highest-valued properties.

OLO recommends that the Council's GO Committee invite State and local SDAT representatives and Finance representatives to discuss the assessment and appeal of the highest-valued properties.

- Does SDAT's process for assessing the highest-valued properties differ from its process for assessing lower-valued properties?
- Should the Department of Finance develop a separate process for evaluating the assessment of and determining whether to appeal the assessment of the highest-valued properties?

### Issue #3: Staffing and resource levels of the Montgomery County SDAT office and their impact on assessments and appeals.

OLO recommends that the GO Committee discuss with State and local SDAT representatives the State's plans to enhance the ability and effectiveness of the County's SDAT office going forward.

- As the economic recovery continues, does SDAT have plans to restore some of the staff resources that were reduced over the past few years?
- How can the County and the local SDAT office work together to ensure that new construction is assessed in a timely and effective manner so that it can become part of the County's tax rolls?
- What efforts has SDAT undertaken to ensure that its assessors have access to commonly-used real estate data to enhance the accuracy of assessments?

Office of Legislative Oversight Report 2014-8

**Appeals of Property Tax Assessments  
in Montgomery County**

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## **Chapter I. Authority, Scope, and Organization**

### **A. Authority**

Council Resolution 17-830, *FY 2014 Work Program for Office of Legislative Oversight* (July 30, 2013).

### **B. Scope, Purpose, and Methodology**

In the State of Maryland, owners of “real property” (land and improvements to land) must pay property tax each year based on the value of the property. The Maryland State Department of Assessments and Taxation (SDAT) sets the value of each parcel of real property through an assessment process, and the amount of tax owed is based on this assessment. Each property is reassessed every three years. In the year that a property is assessed, any taxpayer (not just a property owner), County, municipal corporation, or the Attorney General can appeal the value set by SDAT for any property in a County. Additionally, the property owner can appeal the assessment at any point during the three-year cycle.

The County Code requires the Director of Finance to “protect the public interest” with regard to inaccurate property tax assessments by appealing assessments, intervening in appeals filed by property owners, and taking “any other action permitted by law to review and challenge assessments.” Currently, the Public Advocate for Assessments and Taxation program within the Department of Finance annually reviews property assessments for fairness and accuracy and appeals assessments when it thinks an appeal will “protect the public interest.”

This report responds to a request from the Council to examine the property tax appeal process and its results in Montgomery County. Accordingly, the report:

- Summarizes laws governing the assessment of real property in Maryland and examines the assessment and appeals processes;
- Describes the County Government’s responsibilities with respect to real property taxes and its process for appealing assessments; and
- Examines data on all property assessment appeals in Montgomery County between 2011 and 2013, including appeals filed by the Department of Finance.

### **C. Organization of Report**

**Chapter II, Maryland Real Property Assessment Process**, describes the State’s process for assessing the value of real property and the process for appealing an assessment.

**Chapter III, Real Property Tax in Montgomery County**, summarizes the Council and County Government’s responsibilities with respect to the real property tax and tax assessment appeals.

**Chapter IV, Tax Assessment Appeals Data**, describes data on tax assessment appeals filed in Montgomery County between 2011 and 2013.

**Chapter V, Tax Assessment Appeals by Montgomery County**, summarizes data on the number and outcome of appeals filed by the County Government Department of Finance between 2011 and 2013.

**Chapter VI, Feedback on Property Tax Assessments and Appeals**, summarizes feedback on the assessment and appeals processes received from interviews with State government, County Government, and private sector representatives.

**Chapters VII and VIII** present the Office of Legislative Oversight's **Findings** and **Recommendations**.

**Chapter IX, Agency Comments**, includes agency comments on the final draft of the report.

#### **D. Acknowledgements**

OLO received a high level of cooperation from those who contributed to this report. OLO appreciates the information shared and insights provided by all who participated. In particular, OLO would like to acknowledge the time and expertise of the following individuals:

- James Babb, Tax Operations Manager, Department of Finance, MCG
- Robert C. Bates, Office of Intergovernmental Relations, MCG
- Joe Beach, Director, Department of Finance, MCG
- Owen Charles, Deputy Director, State Department of Assessments and Taxation
- Michael Coveyou, Chief, Division of Treasury, Department of Finance, MCG
- Phavann Chhuan, Treasury Office Financial Programs Manager, Department of Finance, MCG
- Lou D'Ovidio, Senior Advisor, Montgomery County Council
- Joan Fidler, President, Montgomery County Taxpayers' League
- Kent Finkelsen, Administrator, Maryland Property Tax Assessment Appeals Boards
- Scott Foncannon, Associate County Attorney, Office of the County Attorney, MCG
- B. Marie Green, Supervisor of Assessments, Montgomery County Assessment Office, State Department of Assessments and Taxation
- Robert Hagedoorn, Chief, Division of Fiscal Management, Department of Finance, MCG
- Marc Hansen, County Attorney, MCG
- Jack Hearn, Clerk of the Court, Maryland Tax Court
- Wade Holland, Analyst, CountyStat, MCG
- Fariba Kassiri, Assistant Chief Administrative Officer, MCG
- Bruce H. Lee, President, Lee Development Group
- Kathy Massey, Maryland Tax Court
- Bryan Robertson, Department of Technology Services, MCG
- Melvin Tull, Vice President of Government Relations, Lee Development Group
- Robert Young, Director, State Department of Assessments and Taxation

We would also like to thank OLO members, Craig Howard and Kelli Robinson, for their contributions.

## Chapter II. Maryland Real Property Assessment Process

In the State of Maryland, owners of “real property” (land and improvements to land) must pay property tax<sup>1</sup> each year based on the value of the property.<sup>2</sup> The Maryland State Department of Assessments and Taxation (SDAT) sets the value of each parcel of real property through an assessment process, and the amount of tax owed is based on this assessment.

In addition to paying property tax to the State, Maryland law allows counties and other local jurisdictions (e.g., , towns, municipalities, etc.) also to set rates for and collect property taxes.<sup>3</sup> All local jurisdictions that tax real property also use the State’s assessment of property value to determine the amount of tax owed.

If a property owner or a local jurisdiction disagrees with the State’s assessed value for a parcel of real property, State law establishes a process to appeal the assessment. In this chapter,

- **Section A** describes the State’s process for assessing the value of real property, and
- **Section B** summarizes the process for appealing a property assessment.

### A. State Assessment of Real Property

Staff in the State Department of Assessments and Taxation assess – or determine the value of – all real property in the State once every three years. Each property in a County is placed into one of three groups and SDAT staff assess the properties in one group each year. During a three-year cycle, every property in a County is assessed one time.<sup>4</sup> State law requires that real property be assessed at its “cash value.”<sup>5</sup>

Unlike most states, real property in Maryland is assessed by a state agency, and not at the local level. Maryland counties used to oversee the assessment process. In 1973, the State assumed responsibility for property assessments when the State determined that County-by-County assessments violated the requirement in the Maryland Constitution that real property assessments be “uniform.”<sup>6</sup>

**Art. 15.** [T]he General Assembly shall, by uniform rules, provide for the separate assessment, classification and sub-classification of land ... and all taxes thereafter provided ... shall be uniform within each class or sub-class of land....

The Maryland legislature established uniform standards in State law and regulations for property assessment.<sup>7</sup>

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<sup>1</sup> All references to “property tax” in this report refer to the tax on real property, not personal property.

<sup>2</sup> Maryland law exempts certain types of property groups from taxes on real property. Examples include religious and charitable organizations, educational organizations, blind individuals, disabled veterans, government-owned property, and cemeteries. See Md. Code Ann., Tax – Property, Title 7.

<sup>3</sup> Md. Code Ann., Tax – Property, §§ 6-202, 6-203.

<sup>4</sup> State law also requires SDAT to revalue property in any year where there is a change in property value caused by occurrences such as rezoning, the addition of at least \$100,000 in value due to property improvements, or an error in calculation or measurement. Md. Code Ann., Tax – Property, § 8-104(c). Maryland established this triennial assessment system in 1979. Maryland Assessment Procedures Manual § 255.001.001.

<sup>5</sup> Md. Code Ann., Tax – Property, § 1-101(b).

<sup>6</sup> Maryland Constitution Declaration of Rights, Article 15.

<sup>7</sup> See Md. Code Ann., Tax – Property.



## 1. Assessment Process

State law requires SDAT to determine the value of real property based on a physical inspection of the exterior of a property.<sup>8</sup> The “value” of property for purposes of assessment means “market value” or “the most probable price which a property will sell for under normal market conditions.”<sup>9</sup>

The Maryland Assessment Procedures Manual, produced by SDAT, reports three methods for valuing property:

- Recent sales of similar properties,
- Replacement cost (less depreciation), and
- Capitalization of income (for rental and commercial property).

SDAT’s *A Homeowner’s Guide to Property Taxes and Assessments* indicates that Maryland assessors use a blend of the sales and cost approaches to value residential property. Assessors value the land based on the sales approach and value improvements to the land based on replacement costs, with adjustments made if a type of house is worth more or less than the cost of construction.<sup>10</sup>

Assessors typically use the capitalization of income approach to value commercial property.<sup>11</sup> This approach takes into account a property’s potential income from rent (also considering a building’s vacancy rate) and the capitalization rate (or “cap rate”), which is the expected rate of return from real estate investment property. The capitalization rate in Montgomery County ranges from 3% – 7%.

SDAT assessors typically only inspect the exterior of property, particularly residential property, and SDAT representatives report that they are limited in their ability to include the value of high-end interior finishes in their assessments (e.g., marble or granite countertops, hardwood millwork), which can add up to 20% or more to property value. State and Montgomery County SDAT representatives report that staff seek out information on the interiors of properties when available, such as information on specific properties in online real estate databases, to improve the accuracy of their assessments.

State law also allows property to be grouped together for assessment purposes by area, by character or use, or in any other “helpful” manner.<sup>12</sup> This means that SDAT can assess properties that are similar to each other as a group, rather than individually assessing each discrete property. SDAT representatives report that assessors use a mass appraisal system for residential properties in Montgomery County and for some commercial properties.

If SDAT increases the value of a property during a routine assessment, the increase in value is “phased-in” over the three-year cycle, increasing the value of the property by one-third of the total increase each year. The table on the next page illustrates this process.

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<sup>8</sup> Md. Code Ann., Tax – Property, § 8-104(b)(1). See also Code of Maryland Regulations § 18.02.06.01.

<sup>9</sup> Maryland Assessment Procedures Manual § 001.014.001.

<sup>10</sup> *A Homeowner’s Guide to Property Taxes and Assessments*, State Department of Assessments and Taxation at p.2 (2009).

<sup>11</sup> *Review of Montgomery County Commercial Property Tax Assessments*, Montgomery County, MD Office of the Inspector General at p. 7 (Jan. 10, 2013).

<sup>12</sup> Md. Code Ann., Tax – Property, § 2-203(b).

**Table 2-1. Comparison of Assessed Value and Phased-In Value**

	Assessed Value	Phased-In Value
Prior Assessment	\$100,000	
New Assessment	\$130,000	
Year 1		\$110,000
Year 2		\$120,000
Year 3		\$130,000

Source: Md. Code Ann., Tax – Property, §§ 8-102, 103

If SDAT reduces the value of a property during an assessment, the entire reduction is recognized immediately.

Each Maryland county has a local Department of Assessments and Taxation office that assesses property in the county.<sup>13</sup> Montgomery County’s SDAT office has approximately 50 positions, with several positions currently unfilled. In January of 2014, the office had 16 residential property assessors, six commercial property assessors, ten assessors who are managers and not working in the field, and other technical and administrative staff.

In past years, the Montgomery County SDAT office had approximately 90 positions. SDAT experienced staff reductions from fiscal years 2002 to 2012, including many staff members with the most experience. The County’s Supervisor of Assessments reports that of the 16 current residential property assessors in the office, 10 have been with SDAT for one year or less.

In the FY11 State budget, the Maryland legislature transferred a portion of the cost of operating SDAT to local jurisdictions. In FY11 through FY13, jurisdictions were required to reimburse SDAT for 90% of its costs. Beginning in FY14 and beyond, the reimbursement dropped to 50% of SDAT’s costs. Montgomery County’s FY15 Operating Budget includes \$3.5 million for SDAT reimbursement, a \$200,000 increase from FY14.

In December 2013, the State Department of Legislative Services’ Office of Legislative Audits released an audit report related to SDAT.<sup>14</sup> Two findings, in particular, touch on SDAT’s assessment of real property. First, the report found that SDAT did not have formally established requirements for documenting processes and procedures related to real property assessment. For example, SDAT did not have written procedures outlining the type of documentation that offices needed to keep to support the assessment values assigned to properties. In a review of certain local SDAT offices, the auditors found that information necessary to substantiate SDAT’s assessments of certain commercial properties was unavailable.

Second, the auditors found that SDAT did not perform physical inspections of all properties as a basis for assessment, as required by State law. SDAT informed the auditors that “the physical inspections of properties, as required by State law, have not been performed for many years primarily because of staffing shortages.”<sup>15</sup> In addition, SDAT did not require staff to maintain records of inspection, and the auditors could not determine the number of physical inspections performed by local offices.

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<sup>13</sup> Md. Code Ann., Tax – Property, § 8-202.

<sup>14</sup> *Audit Report: State Department of Assessments and Taxation*, Maryland Department of Legislative Services’ Office of Legislative Audits (December 2013). <http://www.ola.state.md.us/Reports/Fiscal%20Compliance/DAT13.pdf>

<sup>15</sup> *Ibid.* at p. 13.

SDAT agreed with both findings and indicated that it was taking actions to implement the auditor's recommendations. In its response to the second finding, SDAT highlighted that it does not have the resources to employ enough assessors to comply with the physical inspection requirement.

## 2. Assessment Schedule

SDAT mails Notices of Assessment to property owners at the end of December each year, which include the new assessment for a property as of the "date of finality" – January 1<sup>st</sup>. These assessments apply for the following taxable year (beginning July 1<sup>st</sup>).<sup>16</sup> The Montgomery County SDAT office also adds new property or property with added value (e.g., new additions to residential property) to the property rolls periodically throughout the year – sending out assessment notices on April 1<sup>st</sup>, July 1<sup>st</sup>, and October 1<sup>st</sup>.

In order for SDAT to track newly-built or improved property, the County Government's Department of Permitting Services electronically transmits building permit data to the Montgomery County SDAT office on a weekly basis to give SDAT notice of new construction and improvements on existing property.<sup>17</sup> SDAT will not know about renovations that add value to a property if the work does not require a permit (e.g., work that does not move plumbing or require electrical work).

Before February 14<sup>th</sup> each year, SDAT must send counties an estimate of the total assessment of real property in a county, an estimate of the assessment of all new construction and improvements, and an estimate of all property that may be deleted from the assessment records.<sup>18</sup> Jurisdictions typically mail property tax bills to property owners in early July. Owners must pay their property tax bill by September 30<sup>th</sup> each year. Alternatively, owners who pay their bill semiannually pay installments by September 30<sup>th</sup> and December 31<sup>st</sup>.

## B. Appeals of Assessments

In the year that a property is assessed, any taxpayer (not just the property owner), County, municipal corporation, or the Attorney General can appeal the value (or classification of property) in a Notice of Assessment for any property in a County by filing a written appeal within 45 days of the date of the Notice.<sup>19</sup> Additionally, in the next two years when a property is *not assessed*,<sup>20</sup> only the property owner can appeal the assessment by submitting a Petition for Review on or before the Date of Finality – January 1.<sup>21</sup>

In general, there are three administrative levels (non-judicial) for appeal of a real property assessment:

- The County Supervisor of Assessments where the property is located,
- The Property Tax Assessment Appeals Board (PTAAB), and
- Maryland Tax Court (a quasi-judicial administrative unit of State government).

The table on the next page includes data on tax assessment appeals filed in Maryland counties from 2009 to 2011.

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<sup>16</sup> See Md. Code Ann., Tax – Property, § 1-101(i).

<sup>17</sup> Md. Code Ann., Tax – Property, § 5-103.

<sup>18</sup> Md. Code Ann., Tax – Property, § 2-205(b)(1).

<sup>19</sup> Md. Code Ann., Tax – Property, § 14-502(a)(1).

<sup>20</sup> State law previously allowed any party to appeal an assessment in any year of the three-year cycle. The legislature changed the law to allow the County (and municipalities and the Attorney General) to appeal only in the year that the assessment is made.

<sup>21</sup> Md. Code Ann., Tax – Property, §§ 1-101(i); 14-503(a).

**Table 2-2. Number of Appeals of Real Property Assessments, 2009-2011**

County	2009		2010		2011	
	Notices Sent	% of Notices Appealed	Notices Sent	% of Notices Appealed	Notices Sent	% of Notices Appealed
<b>Montgomery</b>	<b>118,459</b>	<b>3%</b>	<b>101,865</b>	<b>3%</b>	<b>91,923</b>	<b>4%</b>
Baltimore	98,410	5%	86,071	4%	90,876	5%
Prince George's	84,063	5%	75,955	4%	112,287	6%
Baltimore City	68,932	10%	67,691	5%	81,668	7%
Anne Arundel	61,477	7%	59,522	2%	74,910	3%
All Other	300,270	5%	282,067	3%	288,464	3%
<b>Total</b>	<b>731,611</b>	<b>5%</b>	<b>673,171</b>	<b>4%</b>	<b>740,128</b>	<b>4%</b>

Source: SDAT

A party must complete an appeal at each level, beginning with the Supervisor of Assessments, before moving up to the next level of appeal. A party, however, is not required to present any evidence at any level of appeal in order to appeal to the next level.<sup>22</sup> In addition, SDAT representatives report that a petitioner can ask for different changes to an assessment at each level of appeal.<sup>23</sup>

After these three levels of administrative appeals, a party may file an appeal in the Maryland Circuit Court in the county where the property is located. A party can appeal an assessment even if the party was successful in an appeal at a lower level. The party and SDAT can agree to settle an appeal at any time. SDAT is required to notify the County of any changes to assessments resulting from decisions by the PTAAB or the Maryland Tax Court.<sup>24</sup>

### 1. Appeals to the Supervisor of Assessments

The first level of appeal of a real property assessment is to the Supervisor of Assessments in the County where the property is located. Parties may have the assistance of a representative, agent, or attorney when appealing an assessment.<sup>25</sup>

The Supervisor must hold a hearing for each appeal (or separate hearings, if an appeal is filed by someone other than the property owner). In Montgomery County, the Supervisor typically holds a hearing via telephone for residential appeals and allows telephone hearings for commercial appeals. Supervisors are directed to schedule all hearings before May 1 and the Montgomery County supervisor tries to finish all appeal hearings by July 1.<sup>26</sup>

The Supervisor of Assessments may increase or decrease a property value in an assessment or leave the value unchanged. The Supervisor, however, cannot increase the assessment without approval from the State Supervisor.<sup>27</sup> When an assessment is changed based on an appeal, the Supervisor

<sup>22</sup> Maryland Assessment Procedures Manual § 255.030.030. Certain exceptions exist. For example, a taxpayer may not challenge the value of an income-producing property based on the capitalization of income method beyond the supervisor level if the taxpayer does not submit an income and expense statement at the supervisor level of appeal. Md. Code Ann., Tax – Property, § 14-508(a).

<sup>23</sup> January 10, 2014 Interview with Marie Green, Montgomery County Supervisor of Assessments (hereinafter “Jan. 10, 2014 Interview with Marie Green”).

<sup>24</sup> Md. Code Ann., Tax – Property, § 2-205(b)(2).

<sup>25</sup> Maryland Assessment Procedures Manual § 255.030.050.

<sup>26</sup> Maryland Assessment Procedures Manual § 255.030.009; Jan. 10, 2014 Interview with Marie Green.

<sup>27</sup> Maryland Assessment Procedures Manual § 255.030.006.

must take into account the facts and reasoning for the decision in the appeal when the property is next assessed.<sup>28</sup>

SDAT does not automatically notify the County about appeals of real property assessments filed by taxpayers. It is required by law, however, to notify the County Attorney of an appeal of the assessment of any property valued at more than \$2 million.<sup>29</sup>

## **2. Appeals to the Property Tax Assessment Appeals Board**

The Maryland Property Tax Assessment Appeals Boards (PTAAB) were established in 1973 and State administration of the Boards began in 1976.<sup>30</sup> Each Maryland county plus Baltimore City has a PTAAB that is responsible for hearing appeals of real property assessments in its jurisdiction.<sup>31</sup> PTAAB hearings are open to the public.

An Administrator oversees the functioning of all of the PTAABs, develops the process the Boards use to conduct business, and provides training, guidance, and resources for PTAAB members.<sup>32</sup> The PTAAB Administrator visits every County's and Baltimore City's PTAAB several times each year to observe hearings. Montgomery County's PTAAB is the most active Board in the State – hearing the most appeals and meeting up to four times a week throughout the year – and the Administrator observes Montgomery County's PTAAB two to three times a month.

Montgomery County's PTAAB has three regular members and one alternate member who serve five-year terms and who are chosen by the Governor from a list submitted by the County Executive and approved by the County Council.<sup>33</sup> The Governor appoints a Board chair from among the three regular members.<sup>34</sup> PTAAB members are not required to be attorneys and can be members of any profession.

A Petitioner<sup>35</sup> must file an appeal of a property assessment to the PTAAB within 30 days of the final notice of a decision from the Supervisor of Assessments.<sup>36</sup> To “win” at the PTAAB level, the Petitioner is required to prove that the decision of the County Supervisor was wrong.<sup>37</sup> A PTAAB has the authority to affirm the Supervisor's decision or to increase or decrease assessments.

The County Supervisor of Assessments or an assessor is required to attend PTAAB hearings to “explain and support” SDAT recommendations and can appeal a PTAAB decision to the Tax Court if the Supervisor believes a PTAAB ruling is “improper.”<sup>38</sup> The PTAAB must provide a written summary of its findings and the basis for its findings within 30 days of a hearing.<sup>39</sup>

Representatives of SDAT and the PTAAB Administrator report, however, that written PTAAB decisions often do not describe the basis for findings. The Chair of Montgomery County's PTAAB sends a written report to the County Executive at the end of each calendar year summarizing the number of cases that the Board heard during the year. The table below summarizes these data for the past three years. The

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<sup>28</sup> Md. Code Ann., Tax – Property, § 8-205. Maryland Assessment Procedures Manual § 255.050.020. <http://msa.maryland.gov/msa/mdmanual/25ind/html/57propf.html>, accessed May 13, 2014.

<sup>29</sup> Md. Code Ann., Tax – Property, § 2-215.

<sup>30</sup> <http://msa.maryland.gov/msa/mdmanual/25ind/html/57proph.html>.

<sup>31</sup> [http://www.ptaab.state.md.us/about\\_PTAAB.html](http://www.ptaab.state.md.us/about_PTAAB.html).

<sup>32</sup> COMAR § 14.10.01.02.

<sup>33</sup> Md. Code Ann., Tax – Property, §§ 3-103(a), (c).

<sup>34</sup> Md. Code Ann., Tax – Property, § 3-104.

<sup>35</sup> The petitioner is the party that files an appeal.

<sup>36</sup> COMAR § 14.10.01.03.

<sup>37</sup> COMAR § 14.10.01.05(C)(3).

<sup>38</sup> Md. Code Ann., Tax – Property, § 2-214, 216(f).

<sup>39</sup> Md. Code Ann., Tax – Property, § 3-105(b), COMAR § 14.10.01.06(A).

PTAAB reports, however, do not include data on the outcomes of individual cases and the PTAAB was not able to provide those data. The number of appeals filed with the Montgomery County PTAAB decreased each year between 2011 and 2013, from a high of 3,602 to a low of 1,883.

**Table 2-3. Number of Appeals to the Montgomery County PTAAB, 2011-2013**

Number of Appeals		
2011	2012	2013
3,602	2,198	1,883

Source: Montgomery County PTAAB End-of-Year Caseload Data for 2011, 2012, 2013

### 3. Appeals to Maryland Tax Court

The Maryland Tax Court is an administrative agency of the State government (i.e., it is not a court of law) established in 1959. Five Tax Court judges, appointed by the governor to six-year terms, decide disputes related to taxes (e.g., income tax, sales tax – not just property assessments).<sup>40</sup> No more than three judges can be from the same political party, and the Chief Judge and at least one other judge must be a member of the Maryland Bar.<sup>41</sup>

A party must file an appeal of a property tax assessment to the Tax Court within 30 days of a PTAAB decision, and a taxpayer must have completed appeals with both the local Supervisor of Appeals and the local PTAAB in order to appeal to the Tax Court.<sup>42</sup> Petitioners may represent themselves before the Tax Court or they may hire an attorney.<sup>43</sup>

The Tax Court reviews cases *de novo* – meaning that the Court develops a new record in the case and the decisions of the PTAAB and Supervisor of Assessment are not considered by the Court. To win in a Tax Court appeal, the party requesting the appeal must prove with evidence that an error was made in the assessment.<sup>44</sup> Either party can appeal a decision of the Tax Court to the Circuit Court in the county where the property is located.<sup>45</sup>

The Tax Court can send a property assessment case to a Hearing Examiner – who takes evidence and provides a written recommendation to the Court on the outcome of the case. The parties can respond to the Hearing Examiner’s recommendation before the recommendation is sent to the Tax Court and the Tax Court can adopt, modify, or reject a Hearing Examiner’s recommendation.<sup>46</sup>

For Montgomery County cases, representatives from the Office of the County Attorney and the Department of Finance will appear on behalf of the County at the Tax Court level. On occasion, SDAT will hire an outside attorney for additional representation. For significant cases, representatives from other SDAT divisions will accompany Montgomery County SDAT staff in Tax Court.

<sup>40</sup> *Procedures of the Maryland Tax Court*, at p. 3 (July 1997).

<sup>41</sup> *Procedures of the Maryland Tax Court*, at p. 3-4 (July 1997).

<sup>42</sup> Md. Code Ann., Tax – Property, §§ 14-512(b), (f); *Procedures of the Maryland Tax Court*, at p. 5-6 (July 1997); COMAR § 14.10.01.06(B).

<sup>43</sup> *Procedures of the Maryland Tax Court*, at p. 4 (July 1997).

<sup>44</sup> *Procedures of the Maryland Tax Court*, at p. 11-12 (July 1997).

<sup>45</sup> Md. Code Ann., Tax – Property, § 14-513.

<sup>46</sup> Maryland Assessment Procedures Manual § 229.050.010.

The data in the table below summarize the number and status of property assessment cases filed for Montgomery County properties in 2011-2013. The Tax Court was not able to provide data on the outcomes of individual cases. The number of appeals ranged from a high of 437 in 2011 to a low of 221 in 2012. Of the 925 cases filed over the three year period, all but one were initiated by taxpayers.

**Table 2-4. Montgomery County Appeals to the Maryland Tax Court, 2011-2013**

	Number of Appeals		
	2011	2012	2013
Filed	437	221	267*
<b>Current Status:</b>			
In Trial Status	0	0	41
In Settlement	1	0	10
Closed	436	218	214
Appealed to Circuit Court	0	1	0
Other	0	2	2

Source: Clerk of the Maryland Tax Court

\*One appeal in 2013 was filed by the Supervisor of Assessments. All other appeals were filed by taxpayers.

### Chapter III. Real Property Tax in Montgomery County

In Montgomery County, tax on real property is the largest single source of revenue – \$1.5 billion in FY14 – accounting for 47% of the County Government’s tax revenue. The Council is responsible for setting the property tax, and the County’s Director of Finance is responsible for collecting the tax and reviewing and challenging inaccurate property tax assessments where appropriate.<sup>1</sup> This chapter describes the Council and County Government’s responsibilities with respect to the real property tax and is organized as follows:

- **Section A** summarizes the value and number of properties in Montgomery County,
- **Section B** describes factors that impact the County Council’s setting of property tax rates,
- **Section C** summarizes the County Government’s process for collecting property taxes,
- **Section D** describes the County Government’s appeal of property tax assessments, and
- **Section E** summarizes findings from recent reports about Montgomery County property assessments by CountyStat and the Office of the Inspector General.

#### A. Real Property in Montgomery County

The table below shows the total number of properties in Montgomery County as of July 1<sup>st</sup>, 2013, the property “classes,”<sup>2</sup> and the assessed value of the properties. Over 90% of properties in the County are residential and approximately 3% are commercial.

**Table 3-1. Montgomery County Real Property and Total Assessed Value, as of July 1, 2013**

Property Class	Residential or Commercial	# of Properties	Total Assessed Value
Residential	Residential	243,388	\$113.4 billion
Condominiums	Residential	61,899	\$12.5 billion
Commercial	Commercial	4,237	\$17.5 billion
Commercial Condominiums	Commercial	3,253	\$3.1 billion
Agricultural	Other	2,025	\$624.0 million
Apartments	Commercial	1,629	\$7.7 billion
Industrial	Commercial	1,441	\$5.9 billion
Commercial/Residential <sup>3</sup>	Both	161	\$327.0 million
Townhouses	Residential	119	\$47.9 million
Country Clubs	Commercial	44	\$104.3 million
Residential/Commercial	Both	3	\$0.7 million
Marsh	Residential	1	\$0.4 million
<b>TOTAL</b>		<b>334,945*</b>	<b>\$161.3 billion</b>

Source: SDAT

\* Total number includes 16,745 properties identified as “partial exemption on taxable accounts”

<sup>1</sup> County Charter Sec. 305 and County Code § 20-39.

<sup>2</sup> See Md. Code Ann., Tax – Property, § 8-101(b).

<sup>3</sup> Commercial/Residential refers to property where the primary use is commercial and the secondary use is residential (e.g., a retail store with an apartment above it). Residential/Commercial refers to property where the primary use is residential and the secondary use is commercial (e.g., a house with a medical office in it). See Maryland Assessment Procedures Manual § 045.020.005.



The specific property classes listed in Table 3-1 are used by SDAT in its reports.<sup>4</sup> The categorization of the classes as residential or commercial reflects whether the properties are considered primarily as income-producing (commercial) or as the owners' primary residences.

At the beginning of FY14, Montgomery County had 334,945 properties – 309,061 residential properties, 8,975 commercial properties, and 16,909 agricultural properties, exempt properties, and properties that include both residential and commercial uses, agricultural properties and exempt properties. Between FY11 and FY13, the number of properties in Montgomery County increased by 1%.

**Table 3-2. Number of Properties and Real Property Assessed Value (\$ billions), 2011-2013**

Type of Property	2011		2012		2013	
	Number	Assessed Value*	Number	Assessed Value*	Number	Assessed Value*
Residential	306,606	\$138.7	307,369	\$133.8	309,061	\$134.3
Commercial	8,746	\$26.0	8,442	\$25.6	8,975	\$26.7
Other (including exempt)	16,823	\$0.3	16,967	\$0.3	16,909	\$0.3
<b>Total</b>	<b>332,175</b>	<b>\$165.0</b>	<b>332,778</b>	<b>\$159.7</b>	<b>334,945</b>	<b>\$161.3</b>

Source: SDAT

## B. Property Tax Levy

Maryland State law requires counties to set a single property tax rate for all real property.<sup>5</sup> The Council is responsible for setting the property tax rate and the income tax offset credit – a credit against property taxes for homeowner-occupied properties. When setting rates, the Council takes into consideration certain restrictions defined in State law, the County Charter, and the County Code, described below.

The table below lists the property tax rates for FY11-FY13 and the amount of the income tax offset credit.

**Table 3-3. Weighted Average Real Property Tax Rates and Income Tax Offset Credit, FY11-FY13**

	FY11	FY12	FY13
Real Property Tax Rate (per \$100 of property value)	\$0.904	\$0.946	\$0.991
Income Tax Offset Credit	\$692	\$692	\$692

Source: April 29, 2013 Memorandum from Jacob Sesker, Senior Legislative Analyst, to the Government Operations and Fiscal Policy Committee.

**Constant Yield Tax Rate.** State law requires the Council to hold a public hearing if the Council intends to set a property tax rate that will provide the County with a higher amount of property tax revenue than the prior year. The tax rate that will generate the same amount of revenue for the County is called the Constant Yield Tax Rate (CYTR) and SDAT notifies the County each year on or before February 15<sup>th</sup> of the CYTR for the coming tax year.<sup>6</sup>

<sup>4</sup> "Real Property Taxable Assessable Base, County Level, by Class", July 1, 2013.

<http://www.dat.state.md.us/sdatweb/stats/13Aims2.pdf>

<sup>5</sup> Counties must set the rate sometime between January 1<sup>st</sup> and June 30<sup>th</sup> of each year. Md. Code Ann. – Tax – Property - §§ 6-302(b)(1)(i) and §§ 6-302(a). See also County Code § 52-4. State law provides exceptions for setting tax rates for public utilities and special rates in a taxing district or part of a county. Ibid. §§ 6-302(b)(1)(i), (b)(2).

<sup>6</sup> County Code § 52-11B, Md. Code Ann., Tax – Property, § 6-308.

**Spending Affordability Guidelines.** The County Charter and County Code require the Council to adopt spending affordability guidelines for the operating budget by the second Tuesday in February each year that include a ceiling on property tax revenues. The Council considers relevant factors – including the condition of the economy, income trends, and the impact of economic and population growth on projected revenues – when setting the guidelines. A vote of seven Councilmembers is required to exceed the guidelines when the Council approves the operating budget.<sup>7</sup>

**Charter Limit.** The County Charter limits the amount of property tax that the Council can levy in a year and requires a vote of nine Councilmembers to exceed the “Charter Limit.” The Council is limited to setting a tax rate that will produce the same total revenue as the previous fiscal year, with an increase based on the Consumer Price Index.<sup>8</sup> The Department of Finance calculates the Charter Limit each year.

**C. Property Tax Collection**

The Director of the Department of Finance is responsible for collecting taxes for the County, including taxes for existing properties, new construction, interest, and penalties for delinquent taxes.<sup>9</sup> Table 3-4 summarizes the Department of Finance’s annual tax billing and collection timeline.

**Existing properties.** Under State and County law, July 1<sup>st</sup> is the annual due date for property taxes for existing properties, with a grace period until September 30<sup>th</sup> of each year.<sup>10</sup> State law also requires local jurisdictions to collect property taxes for owner-occupied residential properties and certain small businesses on a semiannual payment schedule, and qualifying taxpayers can pay installments on September 30<sup>th</sup> and December 31<sup>st</sup> of each year.<sup>11</sup>

**New construction.** The County Code specifies a schedule for charging taxes for properties that are added to the tax rolls after July 1<sup>st</sup>, typically new construction. The tax rate for a property added to the tax roll after July 1<sup>st</sup> is prorated based on the date that the property was added. The County Code specifies that a new building becomes assessable when it is “substantially completed,” meaning that the building is “under roof, plastered (or ceiled) and trimmed.”<sup>12</sup>

**Table 3-4. Property Tax Timetable for New Construction**

Property added to tax roll	Taxes payable for period	% of tax rate payable
July 1 – September 30	October 1 – June 30	75%
October 1 – December 31	January 1 – June 30	50%
January 1 – March 31	April 1 – June 30	25%

Source: County Code § 52-11B(d), (e), (f)

**Delinquent taxes.** State law and the County Code permit the County to sell properties – via an annual tax lien sale – to enforce payment of unpaid property taxes.<sup>13</sup> In April of each year, the Department of Finance notifies property owners with unpaid taxes that they have 30 days to pay their tax bill or the County will sell the property in the tax lien sale. The County Government advertises delinquent properties in local newspapers in May and holds the tax sale in June.

<sup>7</sup> County Charter Sec. 305 and County Code § 20-60 and § 20-61.

<sup>8</sup> County Charter Sec. 305. This rule excludes revenue from newly constructed property, newly rezoned property, property for which a change in State law resulted in a change in assessment from the previous year, a property that has undergone a change in use, and development district taxes used to fund capital improvement projects.

<sup>9</sup> County Code § 20-39.

<sup>10</sup> Md. Code Ann. – Tax-Property § 10-102 and County Code § 52-2.

<sup>11</sup> Md. Code Ann. – Tax-Property § 10-204.3.

<sup>12</sup> County Code § 52-2.

<sup>13</sup> Md. Code Ann. – Tax-Property §§ 14-808 to 14-863; and MCC § 52-36.

## D. County Appeals of Property Tax Assessments

Maryland county governments can appeal property tax assessments to the SDAT supervisor, the PTAABs, and the Maryland Tax Court.<sup>14</sup> Like property owners, the County must file an appeal of a property assessment to SDAT within 45 days of the date of the Notice of Assessment.<sup>15</sup> Unlike property owners, county governments cannot file “out-of-cycle” appeals – which are appeals in the two years in which a property *is not* reassessed. Montgomery County has participated in the appeals process since 1974, after the State assumed responsibility for assessing real property. See Chapter V for a summary of data on Montgomery County Government appeals between 2011 and 2013.

**Department of Finance Property Tax Appeals Process.** The County Code assigns certain responsibilities to the County Government’s Director of Finance with respect to real property tax assessments.<sup>16</sup> The Director of Finance must:

- Advise County residents and taxpayers of their rights under State and County tax laws; and
- “Protect the public interest” with regard to inaccurate property tax assessments by appealing assessments, intervening in appeals filed by property owners, and taking “any other action permitted by law to review and challenge assessments.”

The Public Advocate for Assessments and Taxation program within the Department of Finance annually reviews property assessments for fairness and accuracy and appeals assessments when it thinks an appeal will “protect the public interest.”<sup>17</sup> Department of Finance staff report that less than one workyear is devoted to this function. In 2014, the Department hired a contractor to help research properties that the County Government will appeal and compile supporting documentation.

**Process for Determining County Government Appeals.** As noted in Chapter II, each year at the end of December, SDAT mails Notices of Assessment to property owners with a new assessment effective January 1<sup>st</sup>. These are the assessments that the County Government can appeal within 45 days of the date on the Notice.

The Department of Finance only appeals an assessment as “inaccurate” when a property has sold within the previous assessment cycle (3 years) *and* when the sales price for the property is \$300,000 or more than the assessed value. To identify these properties, the Department of Technology Services compiles property sales data and new assessment values for Finance staff. Finance staff also examine information from other sources to identify additional properties with large differences between sales prices and assessments. Finance staff do not have access to SDAT data used for commercial property assessments, such as property income data.

When Finance staff have identified all of the potential properties to appeal based on the above process, staff exclude certain properties with unique factors affecting the property or the sales price (e.g., if an account is tax-exempt or a sale price applies to multiple parcels of land). Staff then compile the final list of properties for appeal and submit the list to SDAT within 45 days of the Notice of Assessment. Moving forward, the contractor hired in 2014 will assist the Department of Finance by analyzing assessments and sale prices and preparing case files and documentation for appeals.<sup>18</sup>

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<sup>14</sup> Md. Code Ann., Tax – Property, § 14-502, § 14-509 and § 14-512 .

<sup>15</sup> Md. Code Ann., Tax – Property, § 14-502(a)(1).

<sup>16</sup> County Code § 20-41A.

<sup>17</sup> Approved FY14 Operating Budget, 3-83.

<sup>18</sup> Contract #1036714, December 2013.

SDAT reviews appeals filed by the County Government in writing and does not hold individual hearings. Appeals are then typically forwarded to the PTAAB. Finance staff report that PTAAB hearings for some properties can occur more than a year after the appeal has been filed.

Finance staff report that the County Government does not appeal assessments to the Maryland Tax Court because of high costs associated with those appeals. Additionally, the County Government typically does not intervene in appeals initiated by taxpayers where taxpayers seek lower assessments, except in certain cases, such as properties that the County has appealed previously or commercial properties where the County has an interest.

**Montgomery County Office of the Public Advocate.** As noted in Chapter II, the State assumed responsibility for property assessments in 1973 when it determined that County-conducted assessments violated the requirement in the Maryland Constitution that real property assessments be “uniform.”<sup>19</sup> In 1974, the Council enacted Bill No. 49-73, creating an independent Office of the Public Advocate (OPA) to represent the public interest and County taxpayers in assessment and related-tax matters before State administrative bodies and the courts.<sup>20</sup>

Table 3-5 summarizes the OPA’s activities as described in a 1992 Office of Legislative Oversight evaluation of the OPA. The OLO report showed that OPA workyears increased from one in FY75 to four in FY91.

**Table 3-5. Activities of the Office of the Public Advocate**

<b>Activities</b>
<ul style="list-style-type: none"> <li>• Annually reviewing newly assessed properties and filing appeals on behalf of the County for under-assessed properties</li> <li>• Intervening in property owner-initiated appeals in the PTAAB and Maryland Tax Court</li> <li>• Advising citizens and providing workshops (at least six annually), informational pamphlets and brochures regarding the assessment and appeals process</li> <li>• Reviewing, evaluating, and providing comments to the Executive on State and/or County legislative measures regarding assessments and tax initiatives</li> <li>• Providing an annual report on OPA activities and accomplishments to the Council and the Executive</li> </ul>

Sources: Bill No. 30-93, Ch. 44 LMC 1993, enacted Nov. 2, 1993; OLO Report No. 91-7, *Description and Evaluation of the Montgomery County Office of the Public Advocate for Assessments and Taxation* (1992).

Recommendations were made in 1981 by the Executive to incorporate the OPA into the Department of Finance and in 1991 by KPMG Peat Marwick to combine the OPA into the Office of Consumer Affairs.<sup>21</sup> OLO’s 1992 evaluation of the OPA noted possible efficiencies from co-locating the OPA within either of these offices but questioned whether incorporating the OPA into another office or department would impact its effectiveness.<sup>22</sup> The OLO report also concluded that the OPA’s appeals and interventions generated revenues in excess of the office’s annual expenditures.

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<sup>19</sup> Maryland Constitution Declaration of Rights, Article 15.

<sup>20</sup> Bill No. 30-93, Ch. 44 LMC 1993, enacted Nov. 2, 1993.

<sup>21</sup> The report was for the Council-established Commission on Efficiency and Effectiveness.

<sup>22</sup> OLO Report No. 91-7, *Description and Evaluation of the Montgomery County Office of the Public Advocate for Assessments and Taxation* (1992), p. 37.

In November 1993, the Council enacted Bill 30-93, eliminating the OPA and assigning the Public Advocate function to the Department of Finance. The bill's fiscal analysis concluded that the change would have no fiscal impact because the OPA had already been physically relocated to the Department of Finance, achieving any organizational efficiencies.<sup>23</sup>

### **E. Property Assessment Studies from CountyStat and the Office of the Inspector General**

In response to recent concerns regarding inaccurate real property assessments, CountyStat and the Office of the Inspector General (OIG) have completed analyses of residential and commercial property assessments in the County. In April 2011, CountyStat released a report finding that, of 8,518 arms-length CY2010 sales of improved residential and condo properties assessed between 2009 and 2011:

- On average, properties were under-assessed compared to 2010 sales prices, and
- Properties with the highest sales prices were the most under-assessed.<sup>24</sup>

In November 2013, CountyStat examined assessment and sales data on all income-producing properties sold between July 1, 2010 and June 30, 2013 and found that assessments met standards established by the International Association of Assessing Officers.<sup>25</sup>

In January 2013, the Office of the Inspector General released a report that examined SDAT's assessment of the Parklawn Building, a commercial office building in Rockville.<sup>26</sup> OIG staff calculated a significantly different assessed value for the building compared to the assessed value reached through a settlement between the property owner and the State. The OIG also examined 20 commercial properties and found that properties with sales prices over \$10 million were assessed at an average of 68% of their selling prices. The OIG recommended that the Department of Finance be more proactive in its responsibility to appeal assessments while recognizing that this would require the dedication of more resources to the function.

SDAT responded to both a draft of the OIG's report and the final report and identified several points in support of its assessments of the Parklawn Building and other commercial property, such as:

- The complicated process for assessing commercial properties that requires extensive education and training,
- Factors pertinent to commercial property values, such as indicators of future income streams, specific property characteristics, and risk, and
- Factors specific to the Parklawn Building, such as condition, vacancy rate, and likelihood of future vacancies.

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<sup>23</sup> Memorandum, October 14, 1993, Robert K. Kendal, Office of Management and Budget to Marilyn J. Praisner, President, Montgomery County Council.

<sup>24</sup> *Review of Property Assessments and Sales in Montgomery County*, CountyStat (April 26, 2011).

<sup>25</sup> *Review of Income-Producing Property Assessments and Sales in Montgomery County*, CountyStat (Nov. 20, 2013).

<sup>26</sup> *Review of Montgomery County Commercial Property Tax Assessments*, Office of the Inspector General (Jan. 2013).

**Chapter IV. Tax Assessment Appeals Data**

Between 2011 and 2013, Montgomery County property owners filed 13,945 appeals of property tax assessments (for 12,000 unique properties) with the State Department of Assessment and Taxation (SDAT) – 9,725 appeals of residential property assessments, 4,116 for commercial property assessments, and 104 for assessments for all other property types.<sup>1</sup> Combined, these appeals resulted in SDAT reducing property values by \$2.1 billion. The tables below summarize data for these appeals.

**Table 4-1. Montgomery County Real Properties as of July 1, 2013, and Appeals, 2011-2013**

Property Class	# of Properties			All Appeals	
	All Properties	Appealed	% of Total	Appeals	Ratio of Appeals per 100 Properties
Residential	305,406	8,661	3.0%	9,725	3/100
Commercial	10,604	3,239	31.0%	4,116	39/100
All Other	2,190	100	0.5%	82	4/100
<b>TOTAL</b>	<b>334,945*</b>	<b>12,000*</b>	<b>3.6%</b>	<b>13,945+</b>	<b>4/100</b>

Source: SDAT data, OLO analysis

\* Total number of properties includes 16,745 properties identified as “partial exemption on taxable accounts.”

+ Total number includes 22 properties identified as “exempt” or “exempt commercial.”

**Table 4-2. Assessed Value of Montgomery County Real Property as of July 1, 2013, and Appealed Value, 2011-2013**

Property Class	Total Assessed Value (\$ billions)		Ratio of Appealed Value to Total Value (\$ Dollars)
	All Properties	Appealed Properties	
Residential	\$126.0	\$5.9	\$5/\$100
Commercial	\$34.4	\$27.1	79/100
All Other	\$1.0	\$0.2	24/100
<b>TOTAL</b>	<b>\$161.3 billion*</b>	<b>\$33.3 billion</b>	<b>\$21/\$100</b>

Source: SDAT data, OLO analysis

\* Total assessed value does not include value of exempt properties.

OLO used data provided by SDAT for its analysis. These data include the results of all appeals filed at the Supervisor level (including those that were later withdrawn) and “out-of-cycle” appeals filed by a taxpayer in a year when the property was not reassessed. The data do not include any subsequent changes made if the result of the Supervisor level decision was appealed to the PTAAB or the Tax Court.

The rest of this chapter is organized as follows:

- **Section A** summarizes data about appeals of property assessments in Montgomery County from 2011-2013.
- **Section B** further reviews the appeals data to examine differences between higher- and lower-valued properties.

<sup>1</sup> Residential properties include properties classified as Residential, Residential Condominium, and Town House. Commercial properties include those classified as Apartments, Commercial, Commercial Condominium, Country Club, and Industrial. “Other” properties include those classified as Agricultural, Exempt, Exempt Commercial, Commercial/Residential, Residential/Commercial or Marsh. These data excluded duplicate data.

**A. Appeals of Property Assessments in Montgomery County, 2011-2013**

The 13,945 appeals filed between 2011 and 2013 represent appeals for 12,000 individual property accounts. The data in Table 4-3 compare the number of appeals to the total number of real properties in the County as of July 1, 2013. Overall, appeals were filed for fewer than 4% of all properties in Montgomery County during this period. Within property classes, however, the rate of appeals differed. The data show that:

- Overall, appeals were filed for fewer than 4% of all properties in Montgomery County during this period. Proportionally, commercial property assessments were appealed at a higher rate than residential assessments.
- Across property classes, apartments were most likely to be appealed. Nearly 58% of all apartment properties had at least one assessment appealed between 2011 and 2013. When counting multiple appeals on the same property, 80 appeals were filed for every 100 apartment properties.

**Table 4-3. Montgomery County Real Properties as of July 1, 2013 and Appeals, 2011-2013**

Property Class	# of Properties			All Appeals	
	All Properties	Appealed	% of Total	Appeals	Ratio of Appeals per 100 Properties
<b>Residential</b>					
Residential	243,507	6,292	2.6%	6,715	3/100
Condominiums	61,899	2,369	3.8%	3,010	5/100
<b>Commercial</b>					
Commercial	4,237	1,168	27.6%	1,419	33/100
Commercial Condominiums	3,253	638	19.6%	770	24/100
Apartments	1,629	937	57.5%	1,310	80/100
Industrial	1,441	484	33.6%	605	42/100
Country Clubs	44	12	27.3%	12	27/100
<b>All Other</b>					
Agricultural	2,025	54	2.7%	56	3/100
Other	165	25	15.2%	26	16/100
<b>TOTAL</b>	<b>334,945*</b>	<b>12,000*</b>	<b>3.6%</b>	<b>13,945*</b>	<b>4/100</b>

Source: SDAT data, OLO analysis

\* Total number of properties includes 16,745 properties identified as “partial exemption on taxable accounts.”

+ Total number includes 22 properties identified as “exempt” or “exempt commercial.”

**Multiple Appeals for the Same Property.** Some properties had multiple appeals of tax assessments filed between 2011 and 2013. The data in the table on the next page show that 14% of all properties had more than one appeal filed for each property while 25% of commercial properties had more than one appeal filed during this time period.

**Table 4-4. Property Accounts with Multiple Appeals, 2011-2013**

Property Class	# of Accounts Appealed	Property Accounts with More Than One Appeal	
		#	%
Residential	8,661	921	11%
Commercial	3,239	796	25%
Other	100	4	4%
<b>TOTAL</b>	<b>12,000</b>	<b>1,721</b>	<b>14%</b>

Source: SDAT

**Assessed Value of Appeals.** The data in the following table compare the assessed value for appeals filed between 2011 and 2013 to the assessed value of all real property in the County as of July 1, 2013. Whereas the \$161.3 billion value of all properties counts the value of each property only once, the \$33.3 billion value of the appeals counts the value of all appeals – including multiple values for a property if it was appealed more than once. To compare the two figures, the table includes a ratio of the appealed value to the total assessment value. The data show:

- Overall, \$21 in assessed value was appealed for every \$100 of property value in the County.
- The ratio of appealed value to total value differed substantially between residential and commercial property classes. Commercial condominiums, apartments, and industrial properties all had over \$80 in appealed value for every \$100 of total assessed value.

**Table 4-5. Assessed Value of Montgomery County Real Property as of July 1, 2013, and Appealed Value, 2011-2013**

Property Class	Total Assessed Value (\$ billions)		Ratio of Appealed Value per \$100 of Property Value (\$ dollars)
	All Properties	Appealed Properties	
<b>Residential</b>			
Residential	\$113.5	\$4.8	\$4/\$100
Condominiums	\$12.5	\$1.1	9/100
<b>Commercial</b>			
Commercial	\$17.5	\$12.1	69/100
Commercial Condominiums	\$3.1	\$2.5	81/100
Apartments	\$7.7	\$6.9	90/100
Industrial	\$5.9	\$5.5	93/100
Country Clubs	\$0.1	<\$0.0	32/100
<b>All Other</b>			
Agricultural	\$0.6	<\$0.1	8/100
Other	\$0.3	\$0.1	36/100
<b>TOTAL</b>	<b>\$161.3 billion*</b>	<b>\$33.3 billion</b>	<b>\$21/\$100</b>

Source: SDAT data, OLO analysis

\* Total assessed value does not include value of exempt properties.



**Appeals and Assessment Changes by Year.** The data in the next table summarize the number of appeals, property values, and changes to property values based on appeals from 2011 to 2013. Of note:

- Overall, the number of appeals filed decreased each year, from 5,568 to 4,514 to 3,863 between 2011 and 2013. The decline from 2011 to 2012 resulted from a decrease in residential appeals of 1,454, while the decline from 2012 to 2013 resulted from a decrease in commercial appeals of 719.
- Over the three-year period, the net assessment decrease for appealed properties as a percent of total value was similar for commercial (6% decrease) and residential (7% decrease) properties.

**Table 4-6. Property Values and Assessment Decreases, by Year and Property Use, 2011-13 (\$ millions)**

Property Type and Appeal Tax Year	# of Appeals	Total Value of Appealed Properties	Net Assessment Decrease	
			\$	%
<b>Residential</b>				
2011	4,191	\$2,515.9	\$238.8	9%
2012	2,737	\$1,369.3	\$63.9	5%
2013	2,797	\$2,060.8	\$116.2	6%
<i>Residential Subtotal</i>	<i>9,725</i>	<i>\$5,946.0</i>	<i>\$419.0</i>	<i>7%</i>
<b>Commercial</b>				
2011	1,337	\$9,273.5	\$673.4	7%
2012	1,749	\$10,549.8	\$616.2	6%
2013	1,030	\$7,311.6	\$357.9	5%
<i>Commercial Subtotal</i>	<i>4,116</i>	<i>\$27,134.9</i>	<i>\$1,647.5</i>	<i>6%</i>
<b>All Other</b>				
2011	40	\$93.2	\$11.9	13%
2012	28	\$70.2	\$5.0	7%
2013	36	\$61.6	\$16.6	27%
<i>Other Subtotal</i>	<i>104</i>	<i>\$225.1</i>	<i>\$33.5</i>	<i>15%</i>
<b>ALL PROPERTIES</b>				
2011	5,568	\$11,882.6	\$924.1	8%
2012	4,514	\$11,989.3	\$685.1	6%
2013	3,863	\$9,434.0	\$490.7	5%
<b>TOTAL</b>	<b>13,945</b>	<b>\$33,306.0</b>	<b>\$2,099.9</b>	<b>6%</b>

Source: SDAT data, OLO analysis

When reviewing an assessment appeal, SDAT can reduce the assessment, increase the assessment, or make no change. Between 2011 and 2013, SDAT reduced assessments in 34% of appeals, raised assessments in about 1% of appeals, and made no change to the assessment in 65% of appeals. The data in the table on the next page provides a more detailed breakdown on the 35% of appeals where SDAT changed assessments.

**Table 4-7. Summary of SDAT Assessment Changes, by Year, 2011-2013**

Appeal Tax Year	Appeals with Assessment Decrease		Appeals with Assessment Increase		Average % Change in Individual Assessment <sup>2</sup>
	#	%	#	%	
<b>Residential</b>					
2011	1,898	45%	23	0.5%	15%
2012	778	28%	7	0.3%	16%
2013	886	32%	9	0.3%	16%
<i>Residential Subtotal</i>	<i>3,562</i>	<i>37%</i>	<i>39</i>	<i>0.4%</i>	<i>15%</i>
<b>Commercial</b>					
2011	438	33%	78	5.8%	21%
2012	489	28%	10	0.6%	24%
2013	241	23%	1	0.1%	46%*
<i>Commercial Subtotal</i>	<i>1,168</i>	<i>28%</i>	<i>89</i>	<i>2.2%</i>	<i>27%*</i>
<b>All Other</b>					
2011	21	53%	0	--	34%
2012	11	39%	0	--	29%
2013	4	11%	0	--	30%
<i>Other Subtotal</i>	<i>36</i>	<i>35%</i>	<i>0</i>	<i>--</i>	<i>32%</i>
<b>ALL PROPERTIES</b>					
2011	2,357	42%	101	1.8%	16%
2012	1,278	28%	17	0.4%	19%
2013	1,131	29%	10	0.3%	22%
<b>TOTAL</b>	<b>4,766</b>	<b>34%</b>	<b>128</b>	<b>0.9%</b>	<b>18%</b>

Source: SDAT data, OLO analysis

\* One 2013 commercial assessment appeal resulted in a 6,733% increase in assessed value, from \$554K to \$38 million. If that data point is excluded, the average percent change in assessment value resulting from commercial property appeals is reduced to 18% for 2013 and 22% for the entire three-year period.

<sup>2</sup> For this analysis, OLO used the absolute value of the change in assessment – looking at the percent difference regardless of whether an assessment increased or decreased. For example, if an assessment increased from \$100,000 to \$125,000, the assessment changed by 25 percent. If an assessment decreased from \$125,000 to \$100,000, the assessment changed by 25 percent.

**Appeals by Location.** As shown in the table below, appeals of property tax assessments occurred throughout the County between 2011 and 2013. Four locations, however, accounted for almost 70% of all 13,945 appeals – Silver Spring (2,788), Bethesda (2,521), Rockville (2,237), and Gaithersburg (1,918).

**Table 4-8. Number of Property Tax Appeals by Location, 2011-2013**

Location	# of Properties Appealed			Total
	Residential	Commercial	Other	
Silver Spring	1,911	862	15	2,788
Bethesda	1,934	583	4	2,521
Rockville	1,480	750	7	2,237
Gaithersburg	1,154	750	14	1,918
Germantown	505	131	4	640
Potomac	527	3	3	533
Chevy Chase	438	38	0	476
Montgomery Village	161	238	0	399
Takoma Park	161	143	1	305
Clarksburg	166	58	5	229
Burtonsville	184	32	0	216
Kensington	110	96	1	207
Olney	131	25	2	158
Damascus	126	16	5	147
All Other	550	39	28	617
None listed	187	352	15	554
<b>TOTAL</b>	<b>9,725</b>	<b>4,116</b>	<b>104</b>	<b>13,945</b>

Source: SDAT

**B. Analysis of Property Tax Assessment Appeals in Montgomery County by Property Value**

In order to examine differences between appeals for higher-valued and lower-valued properties, OLO sorted all commercial and residential properties in the County by assessed value and divided that list into four equal groups – or quartiles. Each quartile contains 25% of properties in the County (2,698 per quartile for commercial properties and 76,655 per quartile for residential properties), with the first quartile containing the lowest-valued properties and the 4<sup>th</sup> quartile containing the highest-valued properties.

The data in the table on the next page show, for each quartile, the range of assessed values, the number and percentage of tax assessment appeals, and the ratio of appeals per 100 properties. The number of appeals in each quartile is not equal because the quartiles were created based on the total number of properties in the County, not on the number of appeals. Additionally, the data in this section exclude the 104 properties described as “Other” in Section A of this chapter.

For commercial properties, 42% of assessment appeals were associated with the highest-value properties, those in the 4<sup>th</sup> quartile. For residential properties, 36% of appeals occurred within the highest-valued properties. However, commercial properties in the 4<sup>th</sup> quartile were more likely to have an appeal (65 appeals for every 100 properties) than residential properties in the 4<sup>th</sup> quartile (5 appeals for every 100 properties).

**Table 4-9. Number and Percent of Property Tax Assessment Appeals, by Quartile, 2011-2013**

Quartile	Range of Assessed Values	Appeals		Ratio of Appeals per 100 Properties
		#	%	
<b>Commercial – 2,698 properties per quartile</b>				
1 <sup>st</sup>	Up to \$185,650	615	15%	23/100
2 <sup>nd</sup>	\$185,651 to \$441,800	933	23%	35/100
3 <sup>rd</sup>	\$441,801 to \$1,636,500	811	20%	30/100
4 <sup>th</sup>	Over \$1,636,500	1,757	42%	65/100
<b>Total Commercial</b>		<b>4,116</b>	<b>100%</b>	<b>38/100</b>
<b>Residential – 76,655 properties per quartile</b>				
1 <sup>st</sup>	Up to \$230,000	2,548	26%	3/100
2 <sup>nd</sup>	\$230,001 to \$338,900	1,768	18%	2/100
3 <sup>rd</sup>	\$338,901 to \$524,900	1,950	20%	3/100
4 <sup>th</sup>	Over \$524,900	3,459	36%	5/100
<b>Total Residential</b>		<b>9,725</b>	<b>100%</b>	<b>3/100</b>

Source: SDAT data, OLO analysis

**Assessment Changes.** As detailed above, between 2011 and 2013, SDAT reduced assessments in 34% of appeals, raised assessments in about 1% of appeals, and made no change to the assessment in 65% of appeals in Montgomery County. Table 4-10 provides a detailed breakdown by quartile for the 35% of appeals where assessments were changed, including the average change in individual assessments by dollar value and percent.<sup>3</sup> The data show:

- Of the 89 commercial property appeals that resulted in an assessment increase, 94% were in the 1<sup>st</sup> quartile (i.e., the lowest-valued commercial properties).
- 48% of commercial appeals and 43% of residential appeals that resulted in a decreased assessment were for properties in the 4<sup>th</sup> quartile (i.e., the highest-valued properties).
- For commercial appeals, properties in the 4<sup>th</sup> quartile had the largest average dollar value change in assessment (\$2.8 million) while properties in the 3<sup>rd</sup> quartile had the largest percent change (52%).
- For residential appeals, properties in the 4<sup>th</sup> quartile had the largest average dollar value change in assessment (\$226K) while properties in the 1<sup>st</sup> quartile had the largest percent change (25%).
- For residential appeals, the average change in assessment for properties in the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> quartiles ranged from \$34K to \$45K. The average change in assessment for properties in the 4<sup>th</sup> quartile, however, was five times as much, at \$226K.

<sup>3</sup> See Footnote 2 in this chapter for a more detailed description of this analysis.

**Table 4-10. Summary of SDAT Assessment Changes by Quartile, 2011-2013**

Quartile	Appeals with Assessment Decrease		Appeals with Assessment Increase		Average Change in Individual Assessments	
	#	%	#	%	\$	%
<b>Commercial Appeals</b>						
1 <sup>st</sup>	68	6%	84	94%	\$19,768	19%
2 <sup>nd</sup>	299	26%	1	1%	\$53,640	21%
3 <sup>rd</sup>	229	20%	3	3%	\$381,139	52%
4 <sup>th</sup>	572	48%	1	1%	\$2,856,357	22%
<b>Total</b>	<b>1,168</b>	<b>100%</b>	<b>89</b>	<b>100%</b>	<b>\$1,387,600</b>	<b>27%</b>
<b>Residential Appeals</b>						
1 <sup>st</sup>	753	21%	11	28%	\$33,802	25%
2 <sup>nd</sup>	592	17%	11	28%	\$43,630	18%
3 <sup>rd</sup>	670	19%	4	10%	\$44,589	12%
4 <sup>th</sup>	1,547	43%	13	33%	\$226,420	13%
<b>Total</b>	<b>3,562</b>	<b>100%</b>	<b>39</b>	<b>100%</b>	<b>\$120,911</b>	<b>16%</b>

Source: SDAT data, OLO analysis

**Top and Bottom 10%.** The amount of the change in assessment value for the top and bottom 10% of properties, by property value, differs significantly. The data in the table below show that:

- The top 10% of commercial properties (412 properties) accounted for 66% of the change in assessment value for all commercial properties - \$1.1 billion. The bottom 10% (412 properties), however, account for less than 1% of the change in value for commercial properties – \$1.2 million.
- The top 10% of residential properties (973 properties) accounted for 58% of the change in assessment value of all residential properties - \$242.7 million. The bottom 10% (973 properties), however, account for less than 1% of the change in value for residential properties – \$3.3 million.

**Table 4-11. Change in Assessment for Top and Bottom 10% of Appealed Properties, by Property Value**

	# of Properties	Change in Assessment		Top 10% as % of All Appeals
		Top 10% of Properties, by Value	All Appeals	
<b>Top 10%</b>				
Commercial	412	(\$1,083,343,400)	(\$1,647,470,933)	66%
Residential	973	(\$242,746,860)	(\$418,957,270)	58%
<b>Bottom 10%</b>				
Commercial	412	(\$1,184,700)	(\$1,647,470,933)	<1%
Residential	973	(\$3,313,760)	(\$418,957,270)	<1%

Source: SDAT data, OLO analysis

**Chapter V. Tax Assessment Appeals by Montgomery County Government**

Between 2011 and 2013, the County Government’s Department of Finance filed 197 appeals of real property tax assessments.<sup>1</sup> Of the 197 appeals filed by the County, 76 are complete. Forty-nine appeals resulted in assessment changes with a net increase in property value of \$192 million. This chapter summarizes data related to these appeals.

**A. County Government Appeals**

Between 2011 and 2013, the Department of Finance filed 111 appeals of commercial property tax assessments, 81 appeals of residential property tax assessments, and five appeals of agricultural property tax assessments (all subsequently withdrawn). The data in the table below show the number of appeals filed each year by property type, their status – complete, pending or withdrawn – and the total assessed value of the appealed properties. Of note:

- 49 appeals filed in 2011 are complete compared with only 11 appeals filed in 2013.
- In 2011 and 2012, the majority of property tax assessment appeals filed by the County Government were for commercial properties.
- In 2013, the majority of property tax assessment appeals filed by the County Government were for residential properties (67 out of 74).<sup>2</sup>

**Table 5-1. Property Tax Assessment Appeals Filed by the Department of Finance, 2011-2013**

Appeal Tax Year	Complete	Pending	Withdrawn	Total
<b>Commercial</b>				
2011	37	4	4	45
2012	16	42	1	59
2013	2	5	0	7
<i>Commercial Subtotal</i>	55	51	5	111
<b>Residential</b>				
2011	12	0	6	18
2012	0	0	1	1
2013	9	48	5	67
<i>Residential Subtotal</i>	21	48	12	81
<b>All Properties</b>				
2011	49	4	10	63
2012	16	42	2	60
2013	11	53	10*	74
<b>TOTAL</b>	<b>76</b>	<b>99</b>	<b>22</b>	<b>197</b>

Source: Department of Finance

\* The County filed five appeals in 2013 for agricultural properties; all subsequently withdrawn.

<sup>1</sup> As noted in Chapter III, SDAT reviews appeals filed by the County Government in writing and forwards those appeals directly to the Property Tax Assessment Appeals Board (PTAAB).

<sup>2</sup> Executive Branch representatives reported that the 2013 assessment cycle (the group of properties assessed by the State in that year) included relatively fewer commercial properties than the other two cycles and relatively more high-value custom-built residential properties.

OLO also analyzed these data to compare the distribution of higher- and lower-valued properties that were subject to appeals filed by the Department of Finance.

As described in Chapter IV, OLO sorted all commercial and residential properties in the County by assessed value and then divided that list in four equal groups – or quartiles. Each quartile contains 25% of properties in the County (2,698 per quartile for commercial properties and 76,655 per quartile for residential properties) with the first quartile containing the lowest valued properties and the 4<sup>th</sup> quartile containing the highest valued properties.

The data in the table below show the range of assessed values for each quartile and the appeals filed by the Department of Finance between 2011-2013 for properties that fall into each quartile. The data show that 55% of appeals of commercial property tax assessments and 91% of appeals of residential property tax assessments filed by the Department of Finance were for properties in the 4<sup>th</sup> quartile – the highest-valued properties in the County.

**Table 5-2. Department of Finance Property Tax Assessment Appeals by Quartile, 2011-2013**

<b>Quartile</b>	<b>Range of Assessed Property Value</b>	<b># of Appeals*</b>	<b>% of Appeals</b>
<b>Commercial Appeals</b>			
1 <sup>st</sup>	Up to \$185,650	3	3%
2 <sup>nd</sup>	\$185,651 to \$441,800	14	13%
3 <sup>rd</sup>	\$441,801 to \$1,636,500	33	30%
4 <sup>th</sup>	\$1,636,501 and above	61	55%
<b>Total Commercial</b>		<b>111</b>	<b>100%</b>
<b>Residential Appeals</b>			
1 <sup>st</sup>	Up to \$230,000	2	2%
2 <sup>nd</sup>	\$230,001 to \$338,900	1	1%
3 <sup>rd</sup>	\$338,901 to \$524,900	4	5%
4 <sup>th</sup>	\$524,901 and above	74	91%
<b>Total Residential</b>		<b>81</b>	<b>100%</b>

Source: Department of Finance

\* This table excludes five appeals of agricultural properties.

**B. Completed Appeals**

Of the 76 completed appeals filed by the Department of Finance between 2011 and 2013, 45 led to increased property tax assessments. The data in the table below show the number and percentage of completed appeals that resulted in assessment increases. Of note:

- 53% of the 55 completed commercial property tax appeals resulted in assessment increases.
- 76% of the 21 completed residential property tax appeals resulted in assessment increases.
- Four commercial property accounts had their assessments decreased for various reasons, including high vacancy rates and assessment issues with a transaction involving multiple parcels.

**Table 5-3. Results of Appeals Filed by the Department of Finance, 2011-2013**

Appeal Tax Year	# of Complete Appeals	Accounts with Assessment Increases	
		#	%
<b>Commercial</b>			
2011	37	18	49%
2012	16	10	63%
2013	2	1	50%
<i>Commercial Subtotal</i>	<i>55</i>	<i>29</i>	<i>53%</i>
<b>Residential</b>			
2011	12	8	67%
2012	0	0	--
2013	9	8	89%
<i>Residential Subtotal</i>	<i>21</i>	<i>16</i>	<i>76%</i>
<b>ALL PROPERTIES</b>			
2011	49	26	53%
2012	16	10	63%
2013	11	9	82%
<b>TOTAL</b>	<b>76</b>	<b>45*</b>	<b>59%</b>

Source: Department of Finance

\*Excludes four properties for which assessments were decreased.



Finally, the data in Table 5-4 show the net increases in property tax assessments from appeals filed by the Department of Finance.

- Appeals of commercial assessments led to a net assessment increase of \$173.3 million.
- Appeals of residential assessments led to a net assessment increase of \$18.7 million.

**Table 5-4. Assessment Increases from Completed  
Department of Finance Appeals, 2011-2013 (\$ millions)**

Appeal Tax Year	Assessed Value		
	Beginning	Net \$ Increase*	% Change
<b>Commercial</b>			
2011	\$209.8	\$96.4	46%
2012	\$167.4	\$76.3	46%
2013	\$1.0	\$0.7	65%
<i>Commercial Subtotal</i>	<i>\$378.2</i>	<i>\$173.3</i>	<i>46%</i>
<b>Residential</b>			
2011	\$20.8	\$11.6	56%
2012	\$0.0	\$0.0	--
2013	\$15.3	\$7.1	46%
<i>Residential Subtotal</i>	<i>\$36.0</i>	<i>\$18.7</i>	<i>52%</i>
<b>ALL PROPERTIES</b>			
2011	\$230.6	\$108.0	47%
2012	\$167.4	\$76.3	46%
2013	\$16.3	\$7.8	48%
<b>TOTAL</b>	<b>\$414.2</b>	<b>\$192.0</b>	<b>46%</b>

Source: Department of Finance

\*These figures include amounts for four commercial property accounts appealed in 2011 and 2012 where assessments were decreased \$7.3 million.

## **Chapter VI. Feedback on Property Tax Assessments and Appeals**

OLO interviewed representatives from several State and County entities to collect feedback on the process for property tax assessments and assessment appeals, including:

- The State Department of Assessments and Taxation,
- The Property Tax Assessment Appeals Boards,
- The Maryland Tax Court, and
- The County Government's Department of Finance.

OLO also spoke with representatives from the Lee Development Group, a local commercial real estate developer, and the Montgomery County Taxpayers League. This chapter summarizes the feedback on the property assessment appeals process.

**SDAT Resources.** Representatives from SDAT and other interviewees reported that SDAT's resources for conducting assessments in the County have been reduced significantly in recent years. As noted in Chapter II, the Montgomery County SDAT office currently has 50 positions, many of which are currently unfilled. In past years, the Montgomery County SDAT office had approximately 90 positions. SDAT experienced staff reductions from fiscal years 2002 to 2012, including several staff members with the most experience. Interviewees also noted that SDAT faces difficulties in recruiting and retaining some staff, due in part to disparities between State salaries and salaries in other nearby jurisdictions.

Some interviewees reported that SDAT appraisers do not have routine access to prominent commercial real estate databases, hindering their ability to accurately assess real estate value. Representatives from Lee Development Group reported that over the past decade, the company has appealed the assessments for a larger percentage of its real estate portfolio each year because of what the company considers increasingly inaccurate assessments. Last year, the company appealed the assessment of 13 properties – winning nine appeals at the SDAT level and four at the PTAAB level.

OLO also heard feedback that with SDAT's diminished resources, it does not promptly include newly-constructed property on the tax rolls – with several tax assessment cycles passing before SDAT is able to assess new construction. This type of delay results in a loss of tax revenue to both the State and the County for the period between when a new building is complete and when SDAT first assesses the value of the building.

**Appeals process.** Some interviewees expressed concerns about the process for appealing property assessments – citing issues with complexity, cost and time. For residential appeals, some interviewees reported that property owners have had difficulties obtaining SDAT data related to a specific property prior to filing an appeal. For property owners appealing commercial assessments, interviewees reported high costs associated with appeals – where property owners can pay in excess of \$100,000, including costs for professional appraisals and attorney and consultant fees. Several interviewees also reported concerns about the time involved in appealing an assessment, both for residential and commercial appeals.

Some interviewees expressed concern that the County Government does not attend Maryland Tax Court hearings when the County is a party to an appeal. County Government representatives reported that they do attend Tax Court hearings for appeals to which the County is a party, but that the cost of appealing to the Tax Court level is prohibitively expensive for the County.

**Analyzing Data on SDAT Assessments.** SDAT representatives expressed concerns that prior studies of assessments, both in Montgomery County and elsewhere, fail to consider relevant factors. For example, SDAT representatives reported that some analyses compared properties' assessed value to property sale prices for sales occurring *after* an assessment was complete. SDAT representatives noted that it cannot consider sales that occur after an assessment and doing so creates an invalid comparison. SDAT representatives also reported that some analyses have compared assessment values to sales prices that SDAT believes do not accurately reflect the value of the property – such as foreclosures and sales associated with multiple properties.

**Chapter VII. Findings**

In the State of Maryland, owners of “real property” (land and improvements to land) must pay property tax each year based on the value of the property. The Maryland State Department of Assessments and Taxation (SDAT) sets the value of each parcel of real property through an assessment. In Montgomery County, tax on real property accounts for 47% of the County Government’s tax revenue, \$1.5 billion in FY14.

Taxpayers, county governments, municipal corporations, and the Attorney General can all appeal the value set by SDAT for any property in a county. This chapter summarizes the Office of Legislative Oversight’s findings regarding Montgomery County’s property tax base and data on appeals of assessments to the State Department of Assessments and Taxation for property in the County, including appeals filed by the County Government’s Department of Finance.

**Finding #1: Montgomery County has approximately 335,000 parcels of real property with an assessed value of \$161 billion.**

Real property in Montgomery County consists primarily of residential property, which makes up 92% of the property in the County and accounts for 78% of the total assessed value. Commercial property makes up an additional 3% of County property, and accounts for 21% of the total assessed value.

**Number and Assessed Value of Montgomery County Property, as of July 1, 2013**

Property Class	# of Properties	Total Assessed Value (\$ billions)
<b>Residential</b>		
Residential	243,507	\$113.5
Condominiums	61,899	\$12.5
<b>Commercial</b>		
Commercial	4,237	\$17.5
Commercial Condominiums	3,253	\$3.1
Apartments	1,629	\$7.7
Industrial	1,441	\$5.9
Country Clubs	44	\$0.1
<b>All Other</b>		
Agricultural	2,025	\$0.6
Other	165	\$0.3
<b>TOTAL</b>	<b>334,945*</b>	<b>\$161.3 billion*</b>

Source: SDAT data, OLO analysis

\* Total number of properties includes 16,745 properties identified as “partial exemption on taxable accounts.”

+ Total assessed value does not include value of exempt properties.

**Finding #2: The State of Maryland assesses the value of real property. In recent years, the State has reduced resources for the Montgomery County SDAT office and has begun requiring counties to pay between 50%-90% of local SDAT office costs.**

Maryland counties used to oversee the property assessment process, until 1973 when the State assumed responsibility after determining that County-by-County assessments violated the requirement in the Maryland Constitution that real property assessments be “uniform.” The Maryland legislature established uniform standards in State law and regulations for property assessment.<sup>1</sup>

Each county has an SDAT office to assess properties in the county, and each parcel of property in a county is assessed once every three years. State law requires SDAT to base its assessments on a physical inspection of each property, performed once every three years. The “value” of property for purposes of assessment means “market value” or “the most probable price which a property will sell for under normal market conditions.”

Montgomery County’s SDAT office has approximately 50 positions, with several positions currently unfilled. In January 2014, the office had 16 residential property assessors, six commercial property assessors, ten assessors who are managers and not working in the field, and other technical and administrative staff.

In past years, the Montgomery County SDAT office had approximately 90 positions. SDAT experienced staff reductions from fiscal years 2002 to 2012, including many staff members with the most experience. The County’s Supervisor of Assessments reports that of the 16 current residential property assessors in the office, 10 have been with SDAT for one year or less.

In the FY11 Maryland State budget, the Maryland legislature transferred a portion of the cost of operating SDAT to local jurisdictions. In FY11 through FY13, jurisdictions were required to reimburse SDAT for 90% of the costs for the office in a jurisdiction. Beginning in FY14 and beyond, the reimbursement dropped to 50% of costs. Montgomery County’s FY15 Operating Budget includes \$3.5 million for SDAT reimbursement, a \$200,000 increase from FY14.

A December 2013 report from the State Department of Legislative Services’ Office of Legislative Audits found that SDAT did not have formally established requirements for documenting processes and procedures related to real property assessment and that SDAT did not perform physical inspections of all properties as a basis for assessment, as required by State law. SDAT agreed with both findings and indicated that it was taking actions to implement the auditor’s recommendations, highlighting that it does not have the resources to employ enough assessors to comply with the physical inspection requirement.

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<sup>1</sup> Maryland law exempts certain types of property groups from taxes on real property. Examples include religious and charitable organizations, educational organizations, blind individuals, disabled veterans, government-owned property, and cemeteries.

**Finding #3: Feedback received about the Montgomery County SDAT office suggests that diminishing resources over the past few years have had a noticeable impact on SDAT.**

Interviewees provided feedback with opinions of how diminishing resources and reduced staff have impacted the Montgomery County SDAT office. Examples include:

- SDAT does not hold individual hearings on appeals filed by the County Government, as required by law, but instead reviews appeals in writing and then forwards appeals to the Montgomery County Property Tax Assessment Appeals Board.
- SDAT does not promptly include newly-constructed property on the tax rolls – with several assessment cycles passing before SDAT is able to assess new construction.
- SDAT appraisers do not have routine access to prominent commercial real estate databases, hindering their ability to compile all data relevant to commercial assessments.

**Finding #4: The State of Maryland has a multi-tiered administrative process for appealing a property assessment. Total appeals in Montgomery County decreased from 9,607 in 2011 to 6,013 in 2013.**

In the year that a property is assessed, any taxpayer (not just a property owner), County, municipal corporation, or the Attorney General can appeal the value of an assessment for any property in a County by filing a written appeal within 45 days of the date of the Notice of Assessment. Additionally, in the next two years when a property is *not assessed*, only the property owner can appeal the assessment. There are three administrative levels for appeal of a real property assessment:

- The Supervisor of Assessments for the county where the property is located,
- The Property Tax Assessment Appeals Board (PTAAB), and
- Maryland Tax Court (a quasi-judicial administrative unit of State government).

A party must complete an appeal at each level, beginning with the Supervisor of Assessments, before moving up to the next level of appeal. Additionally, a party may appeal to the next level even if that party won the appeal at the previous level.

**Property Tax Assessment Appeals Filed between 2011 and 2013 for Montgomery County Properties**

Level of Appeal	Number of Appeals		
	2011	2012	2013
Supervisor of Assessments	5,568	4,514	3,863
Montgomery County PTAAB	3,602	2,198	1,883
Tax Court	437	221	267

Source: SDAT, Montgomery County PTAAB, Maryland Tax Court

**Finding #5: The Department of Finance appealed the assessment of 197 properties valued at \$414 million between 2011 and 2013. The appeals resulted in a net increase of \$192 million (46%) in assessed value.**

Under the Montgomery County Code, the Director of Finance is responsible for “protect[ing] the public interest” with regard to inaccurate property tax assessments by appealing assessments, intervening in appeals filed by property owners, and taking “any other action permitted by law to review and challenge assessments.”

Each year, Department of Finance staff (less than one FTE, augmented by a contractor in 2014) review new property assessments and identify ones for appeal. The Department of Finance only appeals an assessment (1) when a property has sold within the previous assessment cycle *and* (2) when the sales price for the property is \$300,000 or more than the assessed value.

Between 2011 and 2013, the Department of Finance filed 111 appeals of commercial property tax assessments, 81 appeals of residential property tax assessments, and five appeals of agricultural property tax assessments. Of the 197 total appeals filed by the County, 76 are complete, 99 are pending, and 22 have been withdrawn.

Forty-five appeals – or nearly 60% of completed appeals – resulted in assessment increases. Appeals of commercial assessments led to a net assessment increase of \$173.3 million, and appeals of residential assessments led to a net assessment increase of \$18.7 million.

**Results of Appeals Filed by the Department of Finance, 2011-2013**

Appeal Tax Year	# of Complete Appeals	Appealed Value (\$ millions)	Accounts with Assessment Increases		Net Assessment Increase (\$ millions)
			#	%	
Commercial	55	\$378.2	29	53%	\$173.3
Residential	21	\$36.0	16	76%	\$18.7
<b>TOTAL</b>	<b>76</b>	<b>\$414.2</b>	<b>45*</b>	<b>59%</b>	<b>\$192.0</b>

Source: Department of Finance

\* Assessments were decreased for an additional four properties.

SDAT reviews appeals filed by the County in writing, rather than holding individual hearings. Appeals are then typically forwarded to the PTAAB. Finance staff report that the County Government does not appeal PTAAB decisions to the Maryland Tax Court because of high costs associated with Tax Court appeals. Additionally, the County Government typically does not intervene in appeals initiated by taxpayers where taxpayers seek lower assessments.

**Finding #6: Appeals of assessments were filed for fewer than 4% of Montgomery County properties between 2011 and 2013. Proportionally, commercial property assessments were appealed at a higher rate than residential assessments.**

The 13,945 appeals filed between 2011 and 2013 represent appeals for 12,000 individual property accounts, fewer than 4% of all properties in Montgomery County during this period. Commercial property assessments, however, were substantially more likely to be appealed than residential assessments. Apartments had the highest appeal rate among all property classes with nearly 58% of all properties appealed and a ratio of 80 appeals filed for every 100 properties.

**Montgomery County Real Properties as of July 1, 2013 and Appeals, 2011-2013**

Property Class	# of Properties			All Appeals	
	All Properties	Appealed	% of Total	Appeals	Ratio of Appeals per 100 Properties
<b>Residential</b>					
Residential	243,507	6,292	2.6%	6,715	3/100
Condominiums	61,899	2,369	3.8%	3,010	5/100
<b>Commercial</b>					
Commercial	4,237	1,168	27.6%	1,419	33/100
Commercial Condominiums	3,253	638	19.6%	770	24/100
Apartments	1,629	937	57.5%	1,310	80/100
Industrial	1,441	484	33.6%	605	42/100
Country Clubs	44	12	27.3%	12	27/100
<b>All Other</b>					
Agricultural	2,025	54	2.7%	56	3/100
Other	165	25	15.2%	26	16/100
<b>TOTAL</b>	<b>334,945*</b>	<b>12,000*</b>	<b>3.6%</b>	<b>13,945*</b>	<b>4/100</b>

Source: SDAT data, OLO analysis

\* Total number of properties includes 16,745 properties identified as "partial exemption on taxable accounts."

+ Total number includes 22 properties identified as "exempt" or "exempt commercial."

**Finding #7: Thirty-five percent of the 13,945 property assessment appeals in Montgomery County between 2011 and 2013 resulted in changed assessments, leading to a cumulative \$2.1 billion decrease in total assessed property value.**

The 13,945 appeals filed between 2011 and 2013 represent \$33.3 billion in assessed property value. SDAT granted property assessment changes for 37% of residential appeals, 30% of commercial appeals, and 35% of appeals for all other properties.

Commercial properties accounted for over 80% of the value of all appeals filed and 78% of the change in assessment value.

**Assessed Value of Montgomery County Real Property as of July 1, 2013, and Appealed Value, 2011-2013 (\$ billions)**

Property Class	# of Appeals	Total Assessed Value		Change in Assessment Value
		All Properties	Appealed Properties	
Residential	9,725	\$126.0	\$5.9	\$0.4
Commercial	4,116	\$34.4	\$27.1	\$1.6
All Other	104	\$1.0	\$0.2	<\$1
<b>TOTAL</b>	<b>13,945</b>	<b>\$161.3 billion*</b>	<b>\$33.3 billion*</b>	<b>\$2.1 billion</b>

Source: SDAT data, OLO analysis

\* Total assessed value does not include value of exempt properties.

+ Includes value of all appeals, including multiple values for a property if it was appealed more than once.



**Finding #8: Residential and commercial property assessments in Montgomery County with the highest values were more likely to be appealed. Commercial assessments were appealed at a higher rate than residential assessments.**

Distributing commercial and residential properties into four equal groups based on assessment levels allowed OLO to compare appeals across property values. For commercial properties, 42% of assessment appeals were associated with the highest-value properties (represented by the 4<sup>th</sup> quartile in the tables on the next page). For residential properties, 36% of appeals occurred within the highest-valued properties.

However, the highest-valued commercial properties were much more likely to have an appeal (65 appeals for every 100 properties) than the highest-valued residential properties (5 appeals for every 100 properties).

**Number and Percent of Property Tax Assessment Appeals, by Quartile, 2011-2013**

Quartile	Range of Assessed Values	Appeals		Ratio of Appeals per 100 Properties
		#	%	
<b>Commercial – 2,698 properties per quartile</b>				
1 <sup>st</sup>	Up to \$185,650	615	15%	23/100
2 <sup>nd</sup>	\$185,651 to \$441,800	933	23%	35/100
3 <sup>rd</sup>	\$441,801 to \$1,636,500	811	20%	30/100
4 <sup>th</sup>	Over \$1,636,500	1,757	42%	65/100
<b>Total Commercial</b>		<b>4,116</b>	<b>100%</b>	<b>38/100</b>
<b>Residential – 76,655 properties per quartile</b>				
1 <sup>st</sup>	Up to \$230,000	2,548	26%	3/100
2 <sup>nd</sup>	\$230,001 to \$338,900	1,768	18%	2/100
3 <sup>rd</sup>	\$338,901 to \$524,900	1,950	20%	3/100
4 <sup>th</sup>	Over \$524,900	3,459	36%	5/100
<b>Total Residential</b>		<b>9,725</b>	<b>100%</b>	<b>3/100</b>

Source: SDAT data, OLO analysis

**Finding #9: Between 2011 and 2013, SDAT reduced assessments most often for properties in the highest-valued properties. These same properties also had the largest average change in value – \$2.8 million for commercial assessments and \$226K for residential assessments.**

Between 2011 and 2013 SDAT reduced assessments in 34% of appeals, raised assessments in about 1% of appeals, and made no change to the assessment in 65% of appeals in Montgomery County. While properties in the 4<sup>th</sup> quartile saw the largest change in average assessment value, the largest percent changes in assessment value were for commercial properties in the 3<sup>rd</sup> quartile (52% change) and residential properties in the 1<sup>st</sup> quartile (25% change).

**Summary of SDAT Assessment Changes, by Quartile, 2011-2013**

Quartile	Appeals with Assessment Decrease		Appeals with Assessment Increase		Average Change in Individual Assessments	
	#	%	#	%	\$	%
<b>Commercial Appeals</b>						
1 <sup>st</sup>	68	6%	84	94%	\$19,768	19%
2 <sup>nd</sup>	299	26%	1	1%	\$53,640	21%
3 <sup>rd</sup>	229	20%	3	3%	\$381,139	52%
4 <sup>th</sup>	572	48%	1	1%	\$2,856,357	22%
<b>Total</b>	<b>1,168</b>	<b>100%</b>	<b>89</b>	<b>100%</b>	<b>\$1,387,600</b>	<b>27%</b>
<b>Residential Appeals</b>						
1 <sup>st</sup>	753	21%	11	28%	\$33,802	25%
2 <sup>nd</sup>	592	17%	11	28%	\$43,630	18%
3 <sup>rd</sup>	670	19%	4	10%	\$44,589	12%
4 <sup>th</sup>	1,547	43%	13	33%	\$226,420	13%
<b>Total</b>	<b>3,562</b>	<b>100%</b>	<b>39</b>	<b>100%</b>	<b>\$120,911</b>	<b>16%</b>

Source: SDAT data, OLO analysis

## **Chapter VIII. Recommended Discussion Issues**

This Office of Legislative Oversight report, examining the impact of property assessments appeals, found that appeals filed by taxpayers and/or property owners over the past three years led to \$2.1 billion in reductions in the County's property tax base, with the most and largest reductions occurring for the highest-valued properties in the County. At the same time, appeals filed by the County Government during that period increased assessments by approximately \$192 million – \$173 million for commercial properties and \$19 million for residential and other properties.

While the assessment of property is a state function in Maryland, Montgomery County has a vested interest in a fair and effective property assessment process and, thus, continued attention by the County Council to issues around assessments and appeals is warranted. This chapter outlines OLO's recommended issues for Council discussion with representatives from the Executive Branch and the Maryland State Department of Assessments and Taxation (SDAT).

### **Issue #1: The Department of Finance's practices related to appeals of commercial property assessments.**

The Department of Finance's policy for appealing property assessments is to file an appeal when the assessed value of a property differs by more than \$300K from its sale price and only if a property has sold within the prior assessment cycle. In the three years from 2011 to 2013, the County Government filed 111 appeals of commercial property assessments and 86 appeals of residential and other property assessments. Of the 55 completed commercial appeals, approximately 50% resulted in increased assessments of approximately \$173.0 million. At the same time, Finance has determined that participating in some levels and types of appeals – such as those to the Maryland Tax Court – is not cost effective for the County Government because of high costs associated with those appeals.

During the same 2011-2013 time period, taxpayers (or others) filed 4,116 appeals of commercial property assessments where SDAT reduced assessments by \$1.6 billion. Among commercial assessments appealed, the highest value properties are the most likely to receive a reduced assessment. While authorized to do so under State law, the County Government typically does not intervene in these appeals filed by taxpayers.

OLO recommends that the Council discuss with the Chief Administrative Officer and the Director of Finance the potential costs and benefits of expanding the County's role in the appeals process. Specifically:

- Does the County review successful appeals of high-value commercial property that received decreases in assessments to examine whether staff felt those decreases were warranted?
- Should the County regularly evaluate appeals of high-valued properties when they occur to determine whether to intervene?

**Issue #2: The review, assessment, and appeals of the highest-valued properties.**

In Montgomery County, the assessments of the highest-valued properties are appealed at a much higher rate than for lower-valued properties – particularly for commercial properties. Between 2011 and 2013, assessments of the highest-valued commercial properties were appealed at a rate of 65 out of every 100 commercial properties. At the same time, these appeals resulted in a disproportionate share of the overall reductions in assessments by SDAT.

OLO recommends that the Council’s Government Operations and Fiscal Policy (GO) Committee invite State and local SDAT representatives and Department of Finance representatives to discuss the assessment and appeal of the highest-valued properties. In particular:

- Does SDAT’s process for assessing the highest-valued properties differ from its process for assessing lower-valued properties?
- Should the Department of Finance develop a separate process for evaluating the assessment of and determining whether to appeal the assessment of the highest-valued properties?

**Issue #3: Staffing and resource levels of the Montgomery County SDAT office and their impact on assessments and appeals.**

Feedback from SDAT, County Government, and private sector representatives highlights the impact in recent years of reduced resources on SDAT’s Montgomery County office. As State resources for the Office dwindled, the Office reduced staff by over 40%, including the loss of some of its most experienced staff members. At the same time, properties in Montgomery County have continued to increase in number – adding to the Office’s responsibilities. A December 2013 report from the State Department of Legislative Services’ Office of Legislative Audits found that SDAT was not performing physical inspections of all properties once every three years, as required by State law – a fact that SDAT attributed to a lack of necessary resources.

OLO recommends that the GO Committee discuss with State and local SDAT representatives the State’s plans to enhance the ability and effectiveness of the County’s SDAT office going forward. Specific discussion questions include:

- As the economic recovery continues, does SDAT have plans to restore some of the staff resources that were reduced over the past few years?
- How can the County and the local SDAT office work together to ensure that new construction is assessed in a timely and effective manner so that it can become part of the County’s tax rolls?
- What efforts has SDAT undertaken to ensure that its assessors have access to commonly-used real estate data to enhance the accuracy of assessments?

## **Chapter IX. Agency Comments on Final Draft**

The Office of Legislative Oversight circulated a final draft of this report to the Chief Administrative Officer for Montgomery County and the State Department of Assessments and Taxation. OLO appreciates the time taken by agency representatives to review the draft and provide comments. OLO's final report incorporates technical corrections and comments provided by agency representatives.

The written comments received from the Chief Administrative Officer and SDAT are attached in their entirety and begin on the following page.

MEMORANDUM

June 12, 2014

TO: Chris Cihlar, Director, Office of Legislative Oversight

FROM: Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: OLO Draft Report No. 2014-8, Appeals of Property Tax Assessments in Montgomery County

I am in receipt of your draft report No. 2014-8, dated May 29, 2014, detailing the review conducted by your office of the State of Maryland's Property Tax Appeals process; the County Government's responsibilities in this process; and the data on the tax assessment appeals in the County including the Finance Department's appeals between 2011 and 2013. Your assessment of this issue has been thorough, well documented, and in my view, indicates that the County has diligently and responsibly filed appeals in a manner consistent with the requirements of Chapter 20 of the County Code.

In response to the report's Findings and Recommendations, I offer the following comments:

**OLO Finding #5:** The Department of Finance appealed the assessment of 197 properties valued at \$414 million between 2011 and 2013. The appeals resulted in a net increase of \$192 million (46%) in assessed value.

**CAO Response:** We agree with this estimate but note that the assignment of "less than one FTE" that is noted in the finding as well as on page 34 of the draft report includes two staff working with a contractor and reflects the time constrained nature of the appeals process and not the relative priority given to this responsibility. As the report notes, the County has only 45 days to file the appeals after receiving the Notice of Assessment from the State Department of Assessments and Taxation (SDAT). In addition, the net increase of \$192 million in assessed value equates to annual additional revenue of \$1.9 million in additional County revenue based on the FY15 weighted real property tax rate of \$0.996.

**OLO Issue #1:** OLO recommends that the Council discuss with the Chief Administrative Officer and the Director of Finance the potential costs and benefits of expanding the County's role in the appeals process. Specifically:

- Does the County review successful appeals of high-value commercial property that received decreases in assessments to examine whether staff felt those decreases were warranted?
- Should the County regularly evaluate appeals of high value properties when they occur to determine whether to intervene?

**CAO Response:** Currently the Department of Finance is not notified of decreases in assessments that result from an appeal. If we are able to establish a process with SDAT to receive timely notification of decreases in assessments based on an appeal, we could assess whether we can change current business processes and have sufficient resources to conduct more frequent analysis of assessments as well as appear before the Property Tax Assessment Appeals Board (PTAAB) for these additional appeals. Currently, changes in assessment come as part of the monthly revisions provided by SDAT which includes many other changes besides decreased assessments as a result of an appeal. Similarly, the Department of Finance is not notified about appeals filed by property owners. If we can establish a process with SDAT and PTAAB so that we receive timely notification of the appeals, we will evaluate the appeals and determine whether it is appropriate according to our criteria and available resources to intervene.

**OLO Issue #2:** OLO recommends that the Council's Government Operations and Fiscal Policy (GO) Committee invite State and local SDAT representatives and Finance representatives to discuss the assessment and appeal of the highest-valued properties. In particular:

- Should the Department of Finance develop a separate process for evaluating the assessment of and determining whether to appeal the assessment of the highest-valued properties?

**CAO Response:** If the recommendation is that the Department replicates the SDAT function for the highest-valued properties, then we do not concur that this type of duplication of effort take place. Not only does Finance not have the expertise or the personnel to duplicate this state function, we believe the current appeals process (enhanced as suggested above for timely notification of appeals by property owners) is a more cost effective approach to address concerns about assessment of these types of properties.

**OLO Issue #3:** OLO recommends that the GO Committee discuss with State and local SDAT representatives the State's plans to enhance the ability and effectiveness of the County's SDAT office going forward. Specific discussion questions include:

- How can the County and the local SDAT office work together to ensure that new construction is assessed in a timely and effective manner so that it can become part of the County's tax rolls?

**CAO Response:** DPS currently has a process for notifying SDAT by email on a daily basis of permits issued for residential and commercial building for the previous day (see attached report). In addition DPS provides and manages access for SDAT staff to the Hansen system (read-only) the DPS Document Management Center (read-only) as well as providing on-demand operational support for this access as needed.

Chris Cihlar, Director, Office of Legislative Oversight  
June 12, 2014  
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In addition, SB 172 (<http://mgaleg.maryland.gov/2014RS/bills/sb/sb0172E.pdf>) Section 14 established an SDAT Working Group. One of the objectives of this working group is to examine: “The Department’s (SDAT) ability to timely and adequately maintain changes in property status that may occur throughout the year and incorporate new properties in the system of accounts.” The Director of Finance has been appointed to this working group. This OLO recommendation will be raised in the working group as well as potential improvements to the current process for addressing new construction.

If you have questions or need additional information please contact Fariba Kassiri, Assistant Chief Administrative Officer. Again, I thank the Office of Legislative Oversight for its excellent work on this report.

cc: Joseph F. Beach, Director, Department of Finance  
Diane Jones, Director, Department of Permitting Services  
Fariba Kassiri, Assistant Chief Administrative Officer

Attachment



## *Appeals of Property Tax Assessments in Montgomery County*

### **IX. Comments of the State Department of Assessments and Taxation**

The State Department of Assessments and Taxation (SDAT) has carefully reviewed the Draft of the Report from the Office of Legislative Oversight on Appeals of Property Tax Assessments in Montgomery County. We appreciate being given the opportunity and ample time to examine the Report before its release. SDAT concurs and agrees with the analysis and findings contained in the Report.

SDAT believes it appropriate to emphasize the increase in the number of out of cycle “petitions for review” by property owners, especially for commercial properties, that has occurred in the last few years in Montgomery County, despite the reductions in existing values by the Department. Attorneys routinely solicit the owners of the larger value properties to appeal their assessments. Some tax representatives file an appeal or a petition for review on the same properties every year. One of the private business entities in Montgomery County, the Lee Development Group, whose comments have been noted in this report, has appealed the assessments on more of its properties for multiple assessment cycles because it concluded that the SDAT values were too high. It should be noted that some of the assessments which Montgomery County has considered appealing as too low were the product of a successful assessment appeal by a property owner in an earlier assessment cycle.

The number of commercial appeals by property owners in Montgomery County where property values are greater than \$5 million has increased to 408 accounts in 2014. It also should be noted that the higher value of a property then the larger the reduction will be based on even a slight reduction in the “capitalization rate” used to value income producing commercial properties.

The Department also wishes to offer some additional information about four of the Findings of the Report. One of the Findings is that Montgomery County does not present evidence on its appeals that go to Maryland tax Court because of the expense. When the County has appealed an assessment that goes to the Tax Court, the non-appearance puts the Department at a disadvantage without the other party affirmatively putting forth its own evidence for a higher assessed value.

A second Finding where SDAT wants to provide further information concerns the data that can be made available to the County. The Department can provide Montgomery County information on all appeals of assessments of \$2 million and above, which is the same information the agency presently provides the City of Baltimore.

Another Finding deals with what information services and other data the Department receives to assist with its valuation of properties. The Montgomery County Assessment Office does have access to the CoStar and the Real Capital Analytics services but we do not have access to the Montgomery County Government “density” or “development plans” until after the fact. The providing of this County generated data to the Assessment Office would be extremely useful in determining market value on certain properties.

A fourth Finding where the Department wishes to comment concerns the assignment of new assessor and clerical employees added to the local Montgomery County Assessment Office. In fiscal years 2013 and 2014, the Montgomery County Assessment Office was one of two subdivisions receiving the largest number of new clerical and assessor employees in the State from the Department's budget allocation. The new assessors in Montgomery County were all assigned to new property "pickup" teams to assess sooner newly constructed improvements and new improvement additions greater than \$100,000 in value.

In sum, the Department trusts this additional information is of value to the Montgomery County Council and the Office of Legislative Oversight. We hope that the Report on Appeals of Property Tax Assessments in Montgomery County will foster and encourage an ongoing and greater exchange of information between the Department and the County agencies that have certain jointly shared responsibilities in a fair and uniform tax assessment and tax collection system.

Respectfully Submitted,

Robert E. Young  
Director