

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 58.1-3984 of the Code of Virginia, relating to appeal of local tax assessments.

[H 226]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3984 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3984. Application to court to correct erroneous assessments of local levies generally.

A. Any person assessed with local taxes, aggrieved by any such assessment, may, unless otherwise specially provided by law (including, but not limited to, as provided under (i) § 15.2-717 and (ii) § 3 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260), as amended by Chapter 422 of the Acts of Assembly of 1950, as amended by Chapter 339 of the Acts of Assembly of 1958, and as amended by the 2003 Regular Session of the General Assembly), (a) within three years from the last day of the tax year for which any such assessment is made, (b) within one year from the date of the assessment, (c) within one year from the date of the Tax Commissioner's final determination under *subdivision A 6 of § 58.1-3703.1 A 5* or *subsection D of § 58.1-3983.1 D*, or (d) within one year from the date of the final determination under § 58.1-3981, whichever is later, apply for relief to the circuit court of the county or city wherein such assessment was made. The application shall be before the court when it is filed in the clerk's office. *The taxpayer filing the application and the locality shall be necessary parties to the proceedings in the circuit court. The locality shall be named in the application as the "City of _____," "Town of _____," or "_____ County," as applicable.* In such proceedings, except for proceedings seeking relief from real property taxes, the burden of proof shall be upon the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic, and willful discrimination has been made.

All proceedings pursuant to this section shall be conducted as an action at law before the court, sitting without a jury. The county or city attorney, or, if none, the attorney for the Commonwealth, shall defend the ~~application~~ *locality in any such proceedings.*

Prior to the release of any information that constitutes confidential tax information under § 58.1-3, pursuant to discovery or otherwise, for the purposes of a proceeding under this section, the court shall, no later than the issuance of the scheduling order, make the following order:

"Unless otherwise ordered by the court, no entity or person who has obtained confidential information protected by § 58.1-3 of the Code of Virginia regarding [property reference], directly or indirectly through any party to this action, shall disclose, exhibit, or discuss the confidential information except as provided herein. Confidential information protected by § 58.1-3 may be revealed to or discussed only with the following persons in connection with the review or litigation of the assessment of the above-referenced property:

1. The taxpayer or the ~~local government~~ *locality* (the "Parties");
2. Counsel for any Party to this action and employees of the counsel's firm, including attorneys other than counsel;
3. Outside experts retained by and assisting counsel for any Party in the preparation for or trial of this action;
4. The court or an administrative board reviewing the assessment on the above-referenced property, persons employed by the court or administrative board, and persons employed to transcribe or record the testimony or argument at a hearing, trial, or deposition regarding the assessment of the above-referenced property; and

5. Any person who may be called as a witness in a hearing, trial, or discovery that counsel believes in good faith to be necessary for the preparation or presentation of the case.

No person who is furnished with confidential information shall reveal it to, or discuss it with, any person who is not entitled to receive it under the terms of this order. Prior to their receipt of confidential information, those persons described in subdivisions 3 and 5 shall be required to sign an acknowledgement of this order and agree to be bound by the terms hereof and be subject to the jurisdiction of the court for enforcement thereof. Any person who violates the provisions of this order shall be subject to the penalty provided in subsection F of § 58.1-3."

Once the above-referenced order is entered, § 58.1-3 shall not be applicable to prevent the release of

58 any relevant information that is responsive to a request for discovery made in the course of an appeal
59 pursuant to this section.

60 B. In circuit court proceedings to seek relief from real property taxes, there shall be a presumption
61 that the valuation determined by the assessor or as adjusted by the board of equalization is correct. The
62 burden of proof shall be on the taxpayer to rebut such presumption and show by a preponderance of the
63 evidence that the property in question is ~~valued~~ *was assessed* at more *or less* than its fair market value
64 or that the assessment is not uniform in its application, and that it was not arrived at in accordance with
65 generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally
66 recognized professional appraisal organizations such as the International Association of Assessing
67 Officers (IAAO) and applicable Virginia law relating to valuation of property. Mistakes of fact,
68 including computation, that affect the assessment shall be deemed not to be in accordance with generally
69 accepted appraisal practice.

70 However, in any appeal of the assessment of residential property filed by a taxpayer as an owner of
71 real property containing less than four residential units, the assessing officer shall give the required
72 written notice to the taxpayer, or his duly authorized representative, under subsection E of § 58.1-3331,
73 and, upon written request, shall provide the taxpayer or his duly authorized representative copies of the
74 assessment records set out in subsections A, B, and C of § 58.1-3331 pertaining to the assessing officer's
75 determination of fair market value of the property under appeal. A written request by the taxpayer or his
76 duly authorized representative shall be made following the filing of the appeal to circuit court and no
77 later than 45 days prior to trial, unless otherwise provided by an order of the court before which the
78 appeal is pending. Provided the written request is made in accordance with this section or any applicable
79 court order, the assessing officer shall provide such records within 15 days of the written request to the
80 taxpayer or his duly authorized representative. If the assessing officer fails to do so, the assessing officer
81 shall present the following into evidence prior to the presentation of evidence by the taxpayer at the
82 hearing: (i) copies of the assessment records maintained by the assessing officer under § 58.1-3331, (ii)
83 testimony that explains the methodologies employed by the assessing officer to determine the assessed
84 value of the property, and (iii) testimony that states that the assessed value was arrived at in accordance
85 with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally
86 recognized professional appraisal organizations such as the International Association of Assessing
87 Officers (IAAO) and applicable Virginia law relating to valuation of property. Upon the conclusion of
88 the presentation of the evidence of the assessing officer, the taxpayer shall have the burden of proof by
89 a preponderance of the evidence to rebut such evidence presented by the assessing officer as otherwise
90 provided in this section.

91 C. The presumptions, burdens, and standards set out in subsection B shall not be construed to change
92 or have any effect upon the presumptions, burdens, and standards applicable to applications for the
93 correction of erroneous assessments of any local tax other than real property taxes.

94 D. In the event it comes or is brought to the attention of the commissioner of the revenue *or other*
95 *assessing official* of the locality that the assessment of any tax is improper or is based on obvious error
96 and should be corrected in order that the ends of justice may be served, and he is not able to correct it
97 under § 58.1-3981, the commissioner of the revenue *or other assessing official* shall apply to the
98 appropriate court, in the manner herein provided for relief of the taxpayer. Such application may include
99 a petition for relief for any of several taxpayers.