

Tax Certiorari

CERTIORARI are proceedings initiated by taxpayers to challenge their property tax assessments. The results of such challenges can have considerable effect on school budgets and/or a district's residential property taxes. Requests by residential property owners are usually settled by local assessment review boards and result in minor reductions. Requests by businesses and commercial property owners frequently are settled in the courts and result in major reductions in assessment.

Certiorari is pronounced as *ser' she u rer' ee* (to rhyme closely with *search she a rarey*).

Results of CERTIORARI Decisions

When large reductions in property taxes are awarded to commercial enterprises:

- Residential property owners are forced to bear a larger portion of the tax burden and/or
- School districts must cut or reduce the services provided to their students

Frequently, reductions are awarded for prior years of over-assessment, requiring that a portion of collected taxes be refunded *with interest*.

School districts can be victimized by assessment practices over which they have no control, and which can leave them without resources to conduct their programs. The certiorari process does not consider a school district's financial resources. Districts can usually receive permission to intervene in a certiorari case, but many districts cannot afford the needed legal and appraisal fees to do so.

Once the amount of reduction is determined by a review board or court, the terms of refunding may be negotiated among affected parties. Sometimes school districts and/or their attorneys are invited to participate in these negotiations.

Effects of CERTIORARI Decisions Statewide

A 1988 survey of NYS school districts outside New York City and Long Island netted responses from 301 districts (52%) indicating that:

- 20% of respondents paid certiorari related refunds in excess of 1% of their total levy in the past four years;
- More than 10% of respondents paid over 1% of their levy in refunds in each of the last four years;
- Among districts that paid large refunds—
 - 65% became involved in the proceedings;
 - 53% included a budget line item for certiorari refunds;
 - Some borrowed or used money from fund balances or reserve funds to cover certiorari refunds;
 - 53% perceived a trend in their districts toward more requests for large reductions.

NYSSBA Recommendations Regarding CERTIORARI Cases

State Level	Allow assessing units to pass local laws establishing classes of property, to preserve relative share of the tax burden borne by each classification. Amend laws to shorten the filing period for certiorari cases from four to two years, to allow districts to participate in proceedings to review property assessments, to allow districts to negotiate terms of refund payments, to allow interest on refunds to begin accruing on July 1 of the year following settlement of the case, to allow districts to establish reserve funds without voter approval to pay refunds, and provide immediate recalculation of local property wealth for calculating state aid.
Local Level	Become aware of issues and responsibilities involved in certiorari cases. Develop a cooperative relationship with appropriate municipal personnel. Keep NYS Department of Audit and Control apprised of any revisions in the full property value.

Source: *Tax Certiorari: The Impact of Reductions in Real Property Assessment on NYS School Districts*. Albany: NYSSBA, 1998.