



“IN THE KNOW:” BYE BYE BRT?

There is an issue on Philadelphia’s May 18, 2010 primary ballot that may be nearer and dearer to residents’ hearts – or at least to their pocketbooks – than their party’s nominees for U.S. Senator and Pennsylvania Governor.

That issue is whether or not to abolish the embattled Board of Revision of Taxes.

Why should you care about the BRT? Because it’s the independent agency that sets the value of all properties in the city – which in turn dictates how much you pay in property taxes. Ever wonder why your neighbor’s property taxes are lower than yours for essentially the same house? Or who came up with the different taxes? You got it – the BRT.

In the spring of 2009, the *Philadelphia Inquirer* began a stunning barrage of reports detailing decades of gross mismanagement and political deal-making at the BRT. Mayor Michael Nutter demanded the resignation of its seven members. They refused. This set in motion efforts by the administration and City Council – separately and together – to put the BRT out of business.

The Committee of Seventy also urged abolishing the BRT and made recommendations for a permanent restructuring to restore the public’s trust.

On May 18th, if you vote in Philadelphia, you will have a chance to formally dissolve the BRT. (The PA Supreme Court just rejected a bid by five current BRT members to remove the question that would eliminate their jobs from the ballot.)

Given the groundswell of anti-BRT sentiment, is voter approval a foregone conclusion? Not necessarily. Ballot questions can be, and have been, rejected.

Seventy believes that the more you understand about a ballot question, the more likely you are to vote and to make an informed vote. This **“IN THE KNOW:” BYE BYE BRT?** explains the new structure that would replace the BRT. This is the information you WON’T see when you read the 65-word ballot question.¹

Bear with us. We know this is a long Q&A with a lot of details. But, on balance, Seventy believes that knowing more is better than not knowing enough. We hope you feel we made the right decision.

¹ This **“IN THE KNOW:” BYE BYE BRT?** is current as of April 29, 2010.



INTRODUCTION

Tell me why I should care about this issue.

This issue boils down to trust and taxes: Can you trust how your property is valued and how your property taxes are determined? Many of us swallow hard and just pay the bill. As it turns out, many property valuations have been based on bad information. For example, the *Inquirer* reported that eight of 22 houses on one block had inaccurate property descriptions including garages attached to wrong houses and extra floors.

So voting to abolish the BRT will fix this?

Not right away. In January 2010, because the current valuation system is so broken, the mayor announced a moratorium on property assessments. Until a fair and trustworthy process is in place, current assessments are frozen (except for new construction, rehabilitated properties and consolidated or subdivided properties). This should take at least two calendar years – until tax year 2012.

Will my property taxes also stay the same for the time being?

Maybe yes, maybe no. Although property assessments are frozen, your property taxes could go up for other reasons. Several City Council members have suggested raising property taxes to close this year's budget deficit rather than taxing sugared drinks and trash collection, as the mayor has proposed. They think this would be fairer than charging every property owner \$300 a year for trash pickup – no matter how big or small your property is.

Why does dissolving the BRT need my approval?

According to state law, City Council can't abolish the BRT without voter approval.

What does the May 18th ballot question actually say?

"Shall the Board of Revision of Taxes be abolished, and its powers, functions and duties be reassigned to a new Office of Property Assessment (with respect to the making of assessments) and to a Board of Property Assessment Appeals (with respect to appeals from such assessments), with the members of the Board appointed from nominations made by a Board of Property Assessment Appeals Nominating Panel?"



What does this really mean?

This Q&A will explain the details, but in a nutshell: The question asks voters to approve getting rid of the BRT and splitting its functions into two distinct parts: one office to determine property values (assessments), and a separate Board to hear assessment appeals.

The BRT now handles both assessments and assessment appeals?

They did, then they didn't and now they do. (How's that for an answer!) After the *Inquirer* series, the BRT became such a hot potato that the mayor took its assessment function away in October 2009 and temporarily put it under the Finance Director. The BRT was left with the responsibility for handling assessment appeals.

But you just said they now handle both functions?

The memorandum of understanding between the city and BRT that split the assessment and assessment appeals functions expired in early April 2010. The BRT refused to extend it. So now the BRT is back in control of making property assessments.

But I thought there is a freeze on assessments?

The BRT now says they may lift the freeze. Its members also want to move forward on establishing a fairer and more equitable system of assessing all city properties.

Didn't the BRT recently get a new Executive Director?

The BRT's former Executive Director, whose job the *Inquirer* series described as handling patronage workers placed at the agency by the local Democratic and Republican parties, resigned in September 2009. In December 2009, attorney Richard Negrin was named the new Executive Director to begin the process of cleaning up the agency. It was Negrin who recommended freezing assessments because the underlying data used by the BRT to value properties was inaccurate and unreliable.

What's Negrin's status now?

When the BRT refused to extend the memorandum of understanding, its Chair invited Negrin to continue his work. But Negrin says the absence of a signed agreement puts him in an "untenable" situation where he can't operate independently.



Can't the city do something to stop the BRT?

The mayor said the city is looking at its options. In the meantime, on April 22, he signed a bill passed by City Council to reduce the BRT Chair's annual salary from \$75,000 to \$50,000 and the Secretary's salary from \$70,000 to \$45,000. Other BRT members would get \$150 for each day they work, up to a maximum of \$40,000.

Isn't voting "yes" on the ballot question the best "option" to stop the BRT?

Yes.

Can the BRT do anything to prevent the ballot question?

Five of its members tried. They filed a lawsuit asking the Pennsylvania Supreme Court to toss the question from the May 18th ballot. They claimed that the BRT's power to hear appeals can only be removed by the state General Assembly. The high Court did not address this legal argument and ruled that the question had to stay on the ballot.

City Council has started its hearings on next year's budget. Will the BRT be included?

Yes, Council held a hearing on the BRT's budget on April 20, 2010. The BRT Chair testified as if the BRT was planning to continue indefinitely. It was at Council's budget hearing that she mentioned the possibility of the BRT lifting the freeze on assessments and also talked about its plans to fix the system for assessing city properties.

What is the BRT's budget?

According to the city's budget documents for Fiscal Year 2011 – which runs from July 1, 2010 to June 30, 2011 – the proposed budget for the BRT is just over \$8 million. This is down from around \$10.5 million during Fiscal Year 2010. But the budget documents don't say how the money would be divided between the Office of Property Assessment and the Board of Property Assessment Appeals if the ballot question passes.

If the ballot question passes, when would the changes go into effect?

October 1, 2010.



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Should I vote yes or no?

The Committee of Seventy is fiercely non-partisan. We don't support or oppose candidates for political office. But we do make non-partisan recommendations on ballot questions. Because we believe the current BRT is severely damaged and has squandered the public's trust, we are recommending a "yes" vote.

OFFICE OF PROPERTY ASSESSMENT

How would city properties be assessed if the ballot question is approved?

As of October 1, 2010, a new Office of Property Assessment (OPA) will be responsible for making and supervising all assessments and valuations of residential and commercial real estate in Philadelphia.

Will the OPA be inside or outside the government?

The OPA will be within the executive/administrative branch of city government. That means the mayor is ultimately accountable for how well the office performs. This is different from the current BRT, which is an independent agency.

Who will be in charge of the OPA?

The office will be headed by a Chief Assessment Officer (CAO), who is appointed by the mayor and must be confirmed by a majority of City Council's 17 members. The CAO will have a four year term of office.

Is the CAO a patronage position?

Although the CAO is a political appointee, he or she has to meet certain professional requirements to get the job. These include: at least 10 years of progressively responsible professional experience in managing property valuation and a "firm command" of assessment and taxation practices. The CAO must also be an International Association of Assessing Officers' Certified Assessment Evaluator or hold the highest-ranking state-issued appraiser's license.

What if the Mayor and Council think the CAO is doing a bad job?

The CAO may only be removed for cause. The mayor has to present the CAO with a written statement of the reasons for removal, which must be forwarded to City Council. The CAO has ten days to contest removal by sending a written notification to the mayor and Council and is



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entitled to a prompt hearing. After the hearing, or if a hearing is waived, the CAO can be removed by 2/3 of Council's 17 members.

How many employees will the CAO supervise?

The CAO may appoint employees to conduct the work of the office, but their number and compensation must be approved by the mayor. Before the BRT's assessment and appeals functions were separated, the office had 145 employees. The CAO can also appoint at least two deputies. Any more deputies (up to a maximum of ten) must be approved by the city's Administrative Board, which is chaired by the mayor and on which the city's Managing Director and Director of Finance also sit as members.

Will other employees working for the CAO also be political appointees?

Except for the CAO and his/her deputies, the other employees will be part of the city's civil service system. All employees must have relevant and appropriate qualifications, including any state-regulated certifications, as determined by the Civil Service Commission in consultation with the CAO.

Are employees who worked for the BRT eligible for jobs at the OPA?

Yes, any former BRT employee who was regularly performing functions and duties related to the OPA's new responsibilities (as of October 1, 2010) will automatically go to the OPA. However, if they are not already civil service employees, they have to satisfy professional job requirements and take a civil service examination.

I heard that some BRT employees were on the School District's payroll. If the ballot question passes, what happens to them?

This was a sticking point when Council was debating the bill to abolish the BRT. Part of the fallout from the *Inquirer's* series on the BRT involved the 76 BRT employees on the School District's payroll, at a cost of \$4 million. All of the positions were outside the civil service system. At least half were held by political ward leaders or committeepeople. In December 2009, the city announced that these employees had to move to the city's payroll and become part of the civil service system.

Does that make sense?

That depends on who you ask. Becoming a part of the civil service system requires them to satisfy certain professional job requirements and also take the civil service test to keep their



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jobs. Two City Council members voted against the bill to dissolve the BRT because they were concerned that the former School District employees wouldn't be adequately protected. It turns out they had little to fear. The professional job requirements are sufficiently strict that only a handful of people actually qualify to take the test.

Can the former School District employees still be ward leaders or committee people once they are on the city's payroll?

No, and that was another sticking point with legislation to abolish the BRT. Working at the School District allowed the BRT employees to avoid the city's political activity rules. Civil service employees on the city's payroll are not permitted to serve as ward leaders or committee people or to manage political campaigns. As it turned out, 20 former BRT employees at the School District decided not to move to the city's payroll.

What exactly will the OPA do – that is, if the voters approve the ballot question?

The OPA's property assessment and valuation duties will include:

- Ensuring and certifying annual revisions and equalization of all assessments and valuations in accordance with applicable laws, ordinances and industry standards.
- Promulgating, and making publicly available on the city's website, Assessment Standards and Practices Regulations, based upon nationally recognized practices, that:
 - Develops a methodology for valuing real estate for tax purposes.
 - Requires an annual reassessment – applied to all properties, including tax-exempt properties, public utility properties and residential trailers – according to a system that establishes and standardizes real estate appraisals that will yield accurately set property taxes.
 - Makes determinations on applications for tax abatement and tax exemption, and establishes standards for recommending any property tax exemptions.
 - Develops procedures for changing property values in the event of a catastrophic loss or data errors and ensures that changes are certified and sent to the city's Revenue Department.
- Serving as the city's contact for information and complaints about assessment policies and practices.
- Numbering all buildings, houses, condominiums or other city structures.
- Defending assessed property values.



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- Maintaining a register showing the present valuation and assessment of all real property, as well as any additions and changes. The register must show the names of all persons responsible for the additions and changes and the reasons for the revisions.
- Receiving from the Department of Records a report of every recorded deed or conveyance of land, including the recording date, the names of the grantor and grantee, the consideration paid and the location of the property.
- Maintaining an online database of, and ensuring public access to, information on: the characteristics of a property, ownership information, five years of certified values, the baseline assessment and any changes based on an exemption or abatement, real estate tax and tax balances, zoning designation, and any special conditions or certifications regarding the property (e.g., any historical designations).
- Performing any other duties assigned or delegated by the mayor.

BOARD OF PROPERTY ASSESSMENT APPEALS

If the OPA is handling assessments, who will be in charge of property assessment appeals if the ballot question is passed?

A new seven-member Board of Property Assessment Appeals (BPAA) will hear challenges to valuations made by the OPA.

Will the BPAA be inside or outside the government?

The BPAA will be an independent Board – although politicians will choose its members.

Who will choose members of the BPAA?

Members of the BPAA will be appointed by the mayor and must be confirmed by a majority of City Council's 17 members. However, all members must come from a list approved by a separate seven-member Board of Property Assessment Appeals Nominating Panel.

Who will choose members of the nominating panel?

Seven individuals or groups will each get one pick to the nominating panel:

- Mayor of Philadelphia
- President of City Council
- Philadelphia Bar Association



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- Building Industry Association of Philadelphia
- Housing Association of Delaware Valley
- Greater Philadelphia Association of Realtors
- Southeast Chapter of the Assessors' Association of Pennsylvania

If any of these appointing authorities no longer exists, or doesn't want to participate, the other nominating panel members will choose another appointing authority (similar to the non-existent or non-participating person or organization) by majority vote.

How will the nominating panel operate?

Whenever there is a position to be filled, the Chairman of the nominating panel will promptly call a meeting. The names of three qualified people for each open position will be submitted to the mayor in writing. The mayor can return the list to the nominating panel and request additional lists.

So the mayor can reject nominees over and over?

That could happen. The provision of the Philadelphia Home Rule Charter that addresses this point says that a check on the mayor is that he or she is responsible to the voters if nominee after nominee is rejected without a good reason.

Can the nominating panel go outside the list of applicants?

No, only people who apply to serve on the BPAA can be nominated.

Do BPAA members need any special qualifications?

Of the seven BPAA members, two (2) must be Pennsylvania-certified real estate assessors or appraisers with at least 10 years experience and two (2) must be practicing lawyers with at least 10 years of experience and residential or commercial valuation expertise. The remaining three (3) members must have "relevant experience," and at least one of the remaining three must own residential or commercial property. All seven BPAA members must be city residents.

What does "relevant experience" mean?

Your guess is as good as ours. The term is not defined.

I'm qualified to serve on the BPAA. How will I find out if there is an opening?



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The nominating panel is obligated to publish a public notice of an opening at least 30 days before making nominations to the mayor.

How long do BPAA members serve?

Of the initial members of the BPAA, one (1) will serve for two years, two (2) for three years, two (2) for four years and two (2) for five years. All remaining terms will be for five years. Anyone appointed just to fill a mid-term vacancy serves only for the rest of the unexpired term.

How much do BPAA members get paid?

The BPAA chooses its own Chair, Vice-Chair and Secretary. The Chair earns \$50,000 per year and the Secretary earns \$45,000 per year, although Council can change their salaries. The other five members earn \$150 per day attending meetings and hearings, up to a maximum of \$40,000 per year.

What if the Mayor and Council think BPAA members are doing a bad job?

Like the CAO, BPAA members may only be removed for cause. The mayor has to present that member with a written statement of the reasons for removal, which must be forwarded to City Council. The member has ten days to contest removal by sending a written notification to the mayor and Council and is entitled to a prompt hearing. After the hearing, or if the hearing is waived, the member can be removed by 2/3 of Council's 17 members.

Will the BPAA have employees besides the seven BPAA members?

The BPAA is allowed to have as many employees as its members think are needed to do its work. Unlike with the OPA, the number and compensation of employees does not have to be approved by the mayor.

Are employees who worked for the BRT eligible for jobs at the BPAA?

Yes, any former BRT employee who was regularly performing functions and duties related to the new responsibilities of the BPAA (as of October 1, 2010) will automatically go to the BPAA. However, since most of the non-Board positions will be civil service jobs, anyone who is not already a civil service employee must satisfy professional job requirements and take a civil service examination.

What exactly will the BPAA do – that is, if the voters approve the ballot question?

The BPAA's assessment appeal duties will include:



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- Holding hearings, and making decisions, in appeals from assessments.
- Providing written or oral reports of hearings to every BPAA member, regardless of whether or not they heard the appeal, as well as a recommended decision on the appeal and the basis for that recommendation.
- Promulgating and making available on the city's website Assessment Appeals Standards and Practices Regulations that are consistent with applicable laws and based on industry standards as determined by nationally recognized assessment and appraisal industry organizations, and which address:
 - Matters to be appealed, including but not limited to eligibility for and the amount of tax exemptions and property tax abatements.
 - Procedures for filing and hearing appeals and the applicable rules of evidence.
 - Methodology by which appeals decisions are to be made and the format and content of decisions.
 - A "reasonable" time period in which appeals must be heard after filing.
 - Notice requirements to ensure adequate preparation by the participants.
- Providing Council with a written report of its activities every six months and making the report available on the city's website.
- Making decisions on assessment appeals available online within seven days of a ruling and identifying the address of the property, the name of the property owner and the assessed property values for the last five years.
- Performing and exercising other powers and duties conferred or required by law or ordinance.

Do all seven BPAA members hear every appeal?

No, hearings can be in front of one member or more than one member. The BPAA can also appoint hearing officers.

CONCLUSION

If the ballot question passes, and the changes described in "IN THE KNOW:" BYE BYE BRT? are implemented, will the problems created by the BRT fade away?

It will take some time before we see the impact of the changes. Many property owners are still saddled with unfair assessments. Many current and former employees feel unfairly tainted by problems caused by a few.



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However, the Committee of Seventy believes the changes in the ballot question lay a solid foundation for a property assessment and assessment appeals system in which the public can begin to have confidence.

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You can always find other installments of “**IN THE KNOW**,” a series of Q&As to highlight significant city and regional issues, at www.seventy.org.

In the meantime, please feel free to e-mail your comments, or requests for information on other topics you care about, to info@seventy.org. We look forward to hearing from you.