REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

THE CITY ASSESSOR OF PARAÑAQUE CITY, Petitioner,	**CTA EB NO. 1008** (CBAA CASE NO. L-62; LBAA CASE NO. 2003-02)
	Present:
-versus-	**DEL ROSARIO,** *P.J.* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS,** *and* **RINGPIS-LIBAN,** *J.J.*
AFP RETIREMENT AND SEPARATION BENEFIT SYSTEM (AFPRSBS), Respondent.	**Promulgated:** NOV 03 2014 4:17 p.m.

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DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review filed by the City Assessor of Parañaque City assailing the October 11, 2012 Decision and March 18, 2013 Order of the Central Board of Assessment Appeals (CBAA) in CBAA Case No. L-62, entitled *"AFP Retirement and Separation Benefit System (AFPRSBS) vs. Local Board of Assessment Appeals (LBAA) for the City of Parañaque and City Assessor of Parañaque."* The dispositive portions of the assailed decision and order read:

October 11, 2012 Decision:

> "**WHEREFORE,** premises considered, the Resolution of the Local Board of Assessment Appeals of Parañaque City dated 07 March 2005 is hereby REVERSED and SET ASIDE and Tax Declaration Nos. E-002-07527, E-002-07555, E-002-07556, E-002-07557, E-002-07558, and E-002-07559 issued by Respondent City Assessor for Petitioner-Appellant's properties pursuant to Parañaque City Ordinance No. 03-06, Series of 2003, are hereby DECLARED NULL and VOID *ab initio*. Consequently, the realty taxes due on subject properties should be based on the assessments prevailing as of the year 2003, unless and until legally revised, and any amount paid by petitioner-appellant in excess thereof shall be credited in favor of petitioner against any unpaid present or future taxes due on the same properties.
>
> **SO ORDERED.**"

March 18, 2013 Order:

> "**WHEREFORE,** absent any cogent reason to disturb said Decision, the instant Motion for Reconsideration is hereby DENIED for lack of merit.
>
> **SO ORDERED.**"

THE PARTIES

Petitioner City Assessor of Parañaque is the officer of the City of Parañaque in charged with assessing real property tax on real properties within the territorial jurisdiction of the city, with office address at Parañaque City Hall, San Antonio Valley I, Parañaque City, where he may be served with summons and other court processes.

Respondent Armed Forces of the Philippines Retirement and Separation Benefit System (AFPRSBS) is a government corporation and a pension fund of the Armed Forces of the Philippines duly created pursuant to Presidential Decree No. 365, as amended, with office address at 424 Capinpin Avenue, Camp Aguinaldo, Quezon City.

THE FACTS

The facts,[1] as culled from the records, are as follows:

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[1] *Rollo*, pp. 11-13.

"Appellant is a government corporation and a pension fund of the Armed Forces of the Philippines duly created pursuant to Presidential Decree No. 365, as amended, with office address at 424 Capinpin Avenue, Camp Aguinaldo, Quezon City.

Appellant is the owner of certain parcels of land located in the City of Parañaque more particularly described as follows:

Tax Dec. No.	Lot Number	TCT Number
E-002-07527	Lot No. 5B	TCT No. 147013
E-002-07555	Lot No. 6A	TCT No. 154638
E-002-07556	Lot No. 6B	TCT No. 154639
E-002-07557	Lot No. 6C	TCT No. 154641
E-002-07558	Lot No. 6D	TCT No. 154640
E-002-07559	Lot No. 6E	TCT No. 154642

On January 28, 2004, the Appellant received from the Appellee copies of the Revised Declarations of Real Properties, together with copies of Real Property Tax Order of Payment (RPTOP), increasing substantially (by 50%) the assessed value of the above-described parcels of land owned by the Appellant beginning the year 2004, the details of which are as follows:

Tax Dec. No.	Lot Number	TCT Number	Assessed Value
E-002-07527	Lot No. 5B	TCT No. 147013	₱37,686,000.00
E-002-07555	Lot No. 6A	TCT No. 154638	₱21,578,900.00
E-002-07556	Lot No. 6B	TCT No. 154639	₱30,000,000.00
E-002-07557	Lot No. 6C	TCT No. 154641	₱27,418,140.00
E-002-07558	Lot No. 6D	TCT No. 154640	₱ 8,063,400.00
E-002-07559	Lot No. 6E	TCT No. 154642	₱37,137,410.00

Copies of the said Revised Tax Declarations of Real Properties together with copies of Real Property Tax Order of Payment (RPTOP) are hereto attached as **Annexes "A" to "A-5."**

The said parcels of land were assessed for the year 2003 in the amounts hereunder cited as evidenced by the Declarations of Real Property, copies of the said Declarations of Real Property are hereto attached as **Annexes** "**B**" to "**B-5**" as follows:

Lot Number	Assessed Value
Lot No. 5B	₱18,843,000.00
Lot No. 6A	₱10,789,450.00
Lot No. 6B	₱15,000,000.00
Lot No. 6C	₱13,709,070.00
Lot No. 6D	₱ 4,031,700.00
Lot No. 6E	₱16,880,640.00

From the revised Declarations of Real Property and the Real Property Tax Order of Payment (RPTOP) (**Annexes** "**A**" to "**A-5**"), it clearly appears that the reason for the assessment and the increase in the assessed value of the cited properties beginning 2004 is the passage of Parañaque City Ordinance No. 03-06 Series of 2003, a copy of said Ordinance is hereto attached as **Annex** "**C.**" The cited Ordinance of the City of Parañaque determines and delineates the barangay boundaries in the reclaimed area in Manila Bay within the territorial jurisdiction of the City of Parañaque by adopting the straight-line method. Section 1 of the said ordinance specifically provides as follows:

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> "Section 1. The ***territorial boundaries*** of the different barangays in the reclaimed areas in Manila bay ***shall be determined by using the straight line method***." *[Italics and emphasis supplied]*

As a consequence of the passage of the said ordinance, the subject properties of the Appellant were transferred from Barangay Tambo to Barangay Baclaran.

The Appellant assailed and contested the afore-said re-assessment and increase in the assessed value made on the subject properties of the Appellant citing the following as grounds or bases thereof:

> "1. The Parañaque City Ordinance No. 03-06 Series of 2003 is null and void for failure to observe the requirements set forth under Sec. 385 of the Local Government Code;
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> 2. The reassessment and increase in the assessed value of the subject properties has no legal and factual basis since if (*sic*) failed to comply with the requirements of Sec. 220 of the Local Government Code which provides for instances where assessment and increase in the assessed value may be validly made by the local government unit concerned;
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> 3. Such reassessment and increase in the assessed value violated the fundamental principle of uniformity or real property taxation; and
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> 4. The Appellee failed to give the Appellant a written notice of the revise/new (*sic*) assessment as mandated by Section 223 of the Local government (*sic*) Code."

The Local Board of Assessment Appeals, however, in a Resolution dated 07 March 2005, a copy of which is attached hereto as **Annex "D",** denied the Appeal and pronounced that considering the issues raised by herein Appellant are anchored as to whether or not of (*sic*) Parañaque City Ordinance No. 03-06 Parañaque, Series of 2003 is valid and/or constitutional, settlement of such question must be resolved in the proper forum, the dispositive portion of which reads as follows:

> "Therefore, since the issues raised by the Appellant are anchored as to whether or not Parañaque City Ordinance No. 03-06, Series of 2003 is valid and/or constitutional, settlement of such question must be resolved in the proper forum, which will in turn answer all attendant questions.
>
> The instant appeal is hereby DENIED.
>
> xxx xxx xxx"

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The CBAA in its Decision dated October 11, 2012 reversed and set aside the LBAA Resolution dated March 7, 2005. In its Decision, the CBAA held that "assuming, *arguendo*, that the Local Board of Assessment Appeals of Parañaque City was correct in disclaiming jurisdiction over the issue of whether or not Ordinance No. 03-06, Series of 2003 is constitutional or valid, certainly, it has jurisdiction over the acts or, more appropriately, the consequencies (*sic*) of the acts performed by Respondent City Assessor pursuant to said ordinance, insofar as such acts, or the results thereof, affect real property taxation."[2] The CBAA further stated that even "without touching on the constitutionality or validity of said Ordinance No. 03-06, we find nothing therein which remotely authorized Respondent City Assessor to make the questioned reassessments. Respondent's authority to relocate the boundaries between Barangays Tambo and Baclaran using the "straight line policy" does not automatically carry with it the authority to make the questioned reassessments."[3] Thus the CBAA ruled that "the assessments made by Respondent City Assessor of Parañaque on the subject properties of Petitioner-Appellant, purportedly pursuant to the provisions of Ordinance No. 03-06, Series of 2003, of Parañaque City, are null and void for lack of legal basis."[4]

THE PARTIES' ARGUMENTS

Petitioner's Arguments

Petitioner City Assessor contends that the LBAA is correct in dismissing the appeal filed by respondent AFPRSBS for lack of jurisdiction because the appeal is anchored on the validity and constitutionality of Ordinance No. 03-06, Series of 2003. Petitioner alleges that, as a consequence of the passage of said ordinance, the subject properties were reassessed and the corresponding new tax declarations with increased assessed values were issued. Contrary to the ruling of the CBAA, petitioner avers that the said ordinance is a tax ordinance and as City Assessor, he was merely complying with the ordinance's directive for him to implement its provisions. Lastly, petitioner posits that the ordinance enjoys a presumption of validity and an action concerning the validity or constitutionality of the ordinance is within the competent jurisdiction of regular courts and not of the LBAA.[5] om

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[2] *Rollo*, pp. 18-19.
[3] *Rollo*, pp.20.
[4] *Rollo*, p. 21.
[5] *Rollo*, pp. 5-8.

<u>Respondent's Arguments</u>

In its Comment,[6] respondent AFPRSBS argues that the CBAA decision is correct. The primordial issue of the case before the LBAA is the sudden increase in the assessed value of its properties and this has nothing to do with the validity and constitutionality of the said ordinance. Respondent insists that contrary to the claims of petitioner, there is nothing in the said ordinance which could serve as basis for the reassessment of the subject properties and the resulting increase in the assessed value of the same. As such, respondent AFPRSBS maintains that the CBAA is correct in ruling that the said ordinance is neither a tax ordinance nor could it be the basis of the action of petitioner in reassessing and increasing the value of the subject properties. Respondent further adds that during the pendency of this case, respondent AFPRSBS continues to religiously pay the City of Parañaque the real estate taxes for the subject properties based on the alleged erroneous increased assessed value of ₱12,000.00 per square meter.

ISSUE

The sole issue raised by petitioner is whether or not the CBAA is correct in reversing LBAA's Resolution dated March 7, 2005 wherein the LBAA ruled that it has no jurisdiction over the original appeal filed by respondent AFPRSBS.

THE RULING OF THE COURT *EN BANC*

The Court *En Banc* finds the petition without merit.

Section 226 of the Local Government Code of 1991(LGC), as amended, provides for an administrative remedy available to a taxpayer or real property owner who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his real property, to wit:

> "Section 226. *Local Board of Assessment Appeals.* Any owner or person having legal interest in the property who is not satisfied with the action of the **<u>provincial, city or municipal assessor</u>** in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal." (*Emphases added*)

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[6] *Rollo*, pp. 97-104.

Otherwise stated, Section 226 of the LGC of 1991, as amended, clearly provides dissatisfied owners of real property with an administrative forum where they can file their protest to question assessments made by **local assessors**. Specifically, an aggrieved taxpayer can file an outright appeal before the LBAA against an adverse action of the assessor in the assessment of real property within sixty (60) days from receipt of the written notice of assessment.

In the present case, respondent AFPRSBS is questioning the real property tax assessments (as evidenced by new Tax Declarations and Real Property Tax Orders of Payment) issued by petitioner over its various properties which are located within the municipal boundaries of Parañaque City. Respondent AFPRSBS submits that the passage of City Ordinance No. 03-06, Series of 2003 does not give petitioner a blanket authority to reassess or increase the value of the subject real properties considering that said Ordinance was passed mainly for the purpose of adopting a straight line policy in the determination of barangay boundaries in the reclaimed areas in Manila Bay within the territorial jurisdiction of the City of Parañaque.

In *Systems Plus Computer College of Caloocan City vs. Local Government of Caloocan City*,[7] the Honorable Supreme Court confirmed that, under Section 226 of the LGC of 1991, the remedy of appeal to the LBAA is available from an adverse ruling or action of the provincial, city or municipal assessor in the assessment of property, *viz.*:

> "Under Section 226 of RA 7160, the remedy of appeal to the Local Board of Assessment Appeals is available from an adverse ruling or action of the provincial, city or municipal assessor in the assessment of property, thus:
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> > 'Section 226. Local Board of Assessment Appeals. — Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.'
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> However, petitioner argues that it is not contesting any assessment made by respondent City Assessor. Petitioner's argument obviously proceeds from its misunderstanding of the term "assessment." Under Section 199(f), Title II, Book II, of the Local Government Code of 1991, **"assessment" is defined as the act or process of determining the value of a property, or proportion thereof subject to tax, including the discovery, listing, classification and appraisal of properties.** Viewed from this broader perspective, the determination

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[7] G.R. No. 146382, August 7, 2003. (*Citations omitted*).

> made by the respondent City Assessor with regard to the taxability of the subject real properties squarely falls within its power to assess properties for taxation purposes subject to appeal before the Local Board of Assessment Appeals.
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> Petitioner also argues that it is seeking to enforce, through the petition for mandamus, a clear legal right under the Constitution and the pertinent provisions of the Local Government Code granting tax exemption on properties actually, directly and exclusively used for educational purposes. But petitioner is taking an unwarranted shortcut. The argument gratuitously presumes the existence of the fact which it must first prove by competent and sufficient evidence before the City Assessor. It must be stressed that the authority to receive evidence, as basis for classification of properties for taxation, is legally vested on the respondent City Assessor whose action is appealable to the Local Board of Assessment Appeals and the Central Board of Assessment Appeals, if necessary.
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> **The petitioner cannot bypass the authority of the concerned administrative agencies and directly seek redress from the courts even on the pretext of raising a supposedly pure question of law without violating the doctrine of exhaustion of administrative remedies.** Hence, when the law provides for remedies against the action of an administrative board, body, or officer, as in the case at bar, *relief* to the courts can be made *only after* exhausting all *remedies* provided *therein*. **Otherwise stated, before seeking the intervention of the courts, it is a precondition that petitioner should first avail of all the means afforded by the administrative processes.**" *(Emphases supplied)*

Truth to tell, it is erroneous for the LBAA to deny respondent AFPRSBS' appeal on the flimsy ground that it invokes a pure question of law when such appeal is precisely the administrative remedy specified by law to question a city government's action on assessment. The rule is trite that before seeking the intervention of the courts, it is a precondition that the aggrieved party should first avail of all the means afforded by the administrative processes.[8]

Having resolved the issue on the jurisdiction of the LBAA over the appeal filed by respondent AFPRSBS, the Court *En Banc* shall now proceed to determine the correctness of petitioner's action in reassessing the subject properties for purposes of the imposition of real property tax.

The CBAA, in its assailed decision, ruled that:

> "The name of the location of the subject properties was changed, but not the location itself. We are certain that the technical descriptions (the degrees of deviations, the minutes and distances between points) of

[8] *Id.*

the subject parcels of land remain the same even after respondent reassessed the same lots.

A real property's value does not automatically appreciate with the change of the name of the place where said real property is situated."[9]

Without going into the validity of the City Ordinance, the Court *En Banc* finds that the reassessments made by petitioner lack legal basis.

The reappraisal of the subject properties was undertaken by the City Assessor pursuant to City Ordinance No. 03-06, Series of 2003 - - an ordinance adopting a straight-line method in determining the boundaries between barangays stated therein. While it is true that Section III of the City Ordinance No. 03-06, Series of 2003 states that "[t]he office of the City Assessor is hereby directed to implement the provision of this ordinance," there is nothing therein which authorizes the City Assessor to disregard the provisions of Sections 212, 219, 220, and 223 of the LGC of 1991, as amended, which provide:

> "Section 212. *Preparation of Schedule of Fair Market Values.* – Before any general revision of property assessment is made pursuant to the provisions of this Title, there shall be prepared a schedule of fair market values by the provincial, city and the municipal assessors of the municipalities within the Metropolitan Manila Area for different classes of real property situated in their respective local government units for enactment by ordinance of the sanggunian concerned. The schedule of fair market values shall be published in a newspaper of general circulation in the province, city or municipality concerned, or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in two other conspicuous places therein.
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> xxx xxx xxx.
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> Section 219. *General Revision of Assessment and Property Classification.* - The provincial, city or municipal assessor shall undertake a general revision of real property assessments within two (2) years after the effectivity of this Code and every three (3) years thereafter.
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> Section 220. *Valuation of Real Property.* - In cases where (a) real property is declared and listed for taxation purposes for the **first time**; (b) there is an **ongoing general revision** of property classification and assessment; or (c) a **request** is made by the person in whose name the property is declared, the provincial, city or municipal assessor or his duly authorized deputy shall, in accordance with the provisions of this Chapter, make a classification, appraisal and assessment or taxpayer's valuation thereon: *Provided, however,* That the assessment of real property shall **not be increased oftener than once every three (3) years** except in case of new improvements substantially increasing the value of said property or of any change in its actual use.

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[9] *Rollo*, p. 20.

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> Section 223. *Notification of New or Revised Assessment.* - When real property is assessed for the first time or when an **existing assessment is increased or decreased**, the provincial, city or municipal assessor shall **within thirty (30) days give written notice** of such new or revised assessment to the person in whose name the property is declared. The notice may be delivered **personally or by registered mail or through the assistance of the punong barangay** to the last known address of the person to be served." (*Emphases added*)

Indubitably, in increasing the assessed values of the subject properties, the City Assessor failed to comply with the statutory requirements on the manner by which general revision of real property assessments may be made, which include the preparation and publication of schedule of fair market values and more importantly, the issuance of a written notice of such new or revised assessment to the real property owner. As early as 1918, the Supreme Court, in *Viuda y Hijos de Pedro Roxas vs. Rafferty*,[10] ruled that the notice requirement is mandatory, without which, the assessor cannot make a valid assessment, *viz:*

> "It is a general rule that those provisions of a statute relating to the assessment of taxes, which are intended for the security of the citizen, or to insure the equality of taxation, or certainty as to the nature and amount of each person's tax, are mandatory; but those designed merely for the information or direction of officers or to secure methodical and systematic modes of proceedings are merely directory. In the language of the United States Supreme Court, "When the regulations prescribed are intended for the protection of the citizen and to prevent a sacrifice of his property, and by a disregard of which his right might be, and generally would be, injuriously affected, they are not directory but mandatory. Sometimes statutes requiring the assessor to notify the taxpayer have been held merely directory. But in the majority of jurisdictions this requirement is held to be mandatory, so that the assessor cannot make a valid assessment unless he has given proper notice." (*Citations omitted*)

For failure of petitioner to comply with Sections 212, 219, 220, and 223 of the LGC of 1991, as amended, in reassessing and increasing the values of respondent's subject real properties, the Court *En Banc* sustains the findings and conclusion of the CBAA which declared Tax Declaration Nos. E-002-07527, E-002-07555, E-002-07556, E-002-07557, E-002-07558, and E-002-07559 issued by respondent City Assessor of Parañaque City pursuant to Parañaque City Ordinance No. 03-06, Series of 2003 as null and void.

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[10] G.R. No. L-12182, March 27, 1918.

WHEREFORE, premises considered, the subject Petition for Review is hereby **DENIED** for lack of merit. The Decision dated October 11, 2012 and the Order dated March 18, 2013 of the Central Board of Assessment Appeals are hereby **AFFIRMED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court *En Banc*.

ROMAN G. DEL ROSARIO
Presiding Justice