THE BOARD OF REAL PROPERTY ASSESSMENTS AND APPEALS

FISCAL YEAR 2009 ANNUAL REPORT

TOWANDA PAUL-BRYANT
CHAIRPERSON

ANNUAL REPORT

OF

THE BOARD OF REAL PROPERTY ASSESSMENTS AND APPEALS

FISCAL YEAR 2009

TOWANDA PAUL-BRYANT
CHAIRPERSON

LESLIE BOISSIERE
TERRENCE BOYKIN
MAY CHAN
PATRICK CHAUVIN
ROBERT COOPER, ESQ.
CLIFTINE JONES
JOHN MAHSHIE, ESQ.
CHARLES MAYO, ESQ.
FRANK SANDERS
KEITH STONE
HENRY TERRELL, ESQ.
GEORGE TOLL
JAMES "SKIP" WALKER
SEAN WARFIELD
TRENT T. WILLIAMS

TABLE OF CONTENTS

Board of Real Property Assessments and Appeals Membership

		Page
1.	Executive Summary	6
2.	Tax Year 2009 Assessment Appeal Season Overview	8
3.	Major Issues Facing the Board	10
4.	Accomplishments	11
5.	Legislative Recommendation	12
6.	New Initiatives	14

Appendix

- Tax Year 2009 Summary of Decisions & Assessment Data
- BRPAA's Caseload from Tax Year 2005 to Tax Year 2009
- Board Members' Cases and Hours for Tax Year 2009
- Compensation to Board Members

New Initiatives

The Board has reviewed the current filing system and has taken steps to improve the efficiency of current system in measurable ways during the Tax Year 2009 Appeals season. Beginning Tax Year 2010, all Board decisions will be displayed on our website. On a monthly basis, the Board will upload completed assessment appeal decision. By displaying the decisions on the website, the public will have greater flexibility to review the decisions. In addition, the decisions will be downloaded to a disk that will serve as electronic archive and record-keeping system.

The Board's goal is to continue to begin the next year's tax season in July. However, the budget dictates that this is a phased process.

The Board will continue to improve on the training program for members. The training program will be on valuation techniques which include income, market, and cost approaches to value.

The Board also instituted new procedures for completing the appeals.

BOARD OF REAL PROPERTY ASSESSMENTS AND APPEALS MEMBERSHIP

Effective August 10, 2009

MEMBERS	ROLE	CONFIRMATION DATE	TERM ENDING
Towanda Paul-Bryant	Chairperson	June 20, 2009*	July 31, 2011
Leslie Boissiere	Member	June 20, 2009	July 31, 2010
Terrence Boykin	Member	January 4, 2006	July 31, 2010
May S. Chan	Member	July 10, 2007	April 30, 2011
Patrick Chauvin	Member	July 18, 2009	April 30, 2012
Robert Cooper	Member	June 20, 2009	July 31, 2011
Cliftine Jones	Member	February 23, 2008	April 30, 2011
John Mahshie	Member	February 23, 2008	July 31, 2009
Charles Mayo	Member	April 6, 2004	July 31, 2009
Frank Sanders	Member	July 18, 2009	April 30, 2011
Keith Stone	Member	July 18, 2009	April 30, 2013
Henry Terrell	Member	January 4, 2006	July 31, 2010
George S. Toll, Jr.	Member	May 3, 2005	July 31, 2009
James "Skip" Walker	Member	February 23, 2008	July 21, 2010
Sean Warfield	Member	January 4, 2006	July 31, 2010
Trent Williams	Member	June 20, 2009	April 30, 2013

*Ms. Paul-Bryant was confirmed as a member of the Board on July 10, 2007.

NOTE: A member can serve up to 180 days after the expiration of his/her term has expired or until the Mayor appoints a new member or the current member is re-appointed, whichever comes first.

Executive Summary

The mission of the Board of Real Property Assessments and Appeals ("Board") is "to conduct fair and impartial real property assessment appeal hearings and to ensure that appellants' real properties are assessed at 100 percent of market value."

Currently, the District of Columbia law provides real property owners with a three-level appeals process as it relates to real property taxation assessments. The first level appeal occurs with the Office of Tax and Revenue ("OTR") where the petitioner can appeal the assessments with the assessor of record. At this appeal level, the assessor can either sustain or reduce the proposed assessed value of the property.

The Board is the second level, and its statutory authority is derived from D.C. Official Code 47-825.01. The Board is composed of up to 18 members. However, the Board functions primarily in two or three member panels who review and decide individual appeals by taxpayers – residential or commercial property owners – who exhausted their first level appeal. Before the panels, the taxpayers can represent themselves or be represented by counsel which could be an attorney or non-attorney "tax consultant." Finally, if the taxpayer has exhausted all avenues with the Board, which includes requesting a rehearing, then the taxpayer can appeal to the Tax Division of the Superior Court of the District of Columbia, the third level of appeal.

The Board consists of realtors, real estate brokers, general appraisers, residential appraisers, and attorneys that are familiar with every aspect of the unique real estate market in the District. Board members, who are appointed by the Mayor and confirmed by the Council, serve on an as-needed basis. Pursuant to District law, members may not

be officers of the District government[1]. Accordingly, all members remain independent, impartial and objective, in discharging their official duties.

The Annual Report covers the activities for Tax Year 2009. For Tax Year 2009 season, the Board faced many challenges. Appeals increased almost 30 percent from Tax Year 2008 to Tax Year 2009[2]. The increase in commercial appeals required more time for panel members to render a decision due the complexity and nature of the appeals.

There has also been an increase in classification appeals to the Board. D.C. Law 17-216, the "Nuisance Properties Abatement Reform and Real Property Classification Amendment Act of 2008," authorizes the Board to hear appeals from a notice of final determination on vacancy of property and increases the rate of Class 3 Properties to $10 for each $100 assessed value. With this change in the law, classification appeals have had a steady increase.

In addition to increase in commercial and classification appeals, the Board's caseload has increased by two other types of appeals: Possessory Interest and Water and Sewer Special Assessments. D.C. Law 13-305, the "Tax Clarity Act of 2000," requires the Mayor to determine the assessed value of the interest or use as if the lessees or user of the real property were the owner of the real property and the real property were not tax exempt. The law authorizes the Board to render decisions on these appeals which are highly complex legal matters pertaining to leasehold interests. With regards to the Water and Sewer Special Assessments, D.C. Law 17-89, the "Southeast Water and Sewer Improvement Special Assessment Authorization Act of 2007" authorizes a special assessment on properties located within a certain area that are specifically benefited by

[1] For purposes of Section 47-825.01, officers of the District government means the Mayor and the members of the Council.
[2] Since 2005, the number of appeals filed at the Board has increased by 64%.

the improvements and upgrades to the water and sewer systems and authorizes the District government to collect the special assessments in the same manner as real property taxes. These appeals are highly unusual and require special attention by the Board.

Tax Year 2009 has been a transition year for the Board. In 2008, the Board received criticism about its operations. Instead of ignoring the criticism, the Board used it as an opportunity to revamp its procedures. Even with the increased case load for this year, the Board enhanced its website to make it more user-friendly; implemented a training curriculum for members on valuation technique; streamlined and implemented new administrative procedures; and conducted the statutory-required public administrative meetings for the year.

Tax Year 2009 Appeal Season Overview

The Board received 4,480 appeals for Tax Year 2009. This is an increase of over 1,041 appeals, a 23 percent increase from Tax Year 2008 which was 3,439 appeals. Of the 4,480 appeals, 4, 307 are "standard assessment appeals" which are valuation and classification appeals that are automatically placed in OTR's tracking system. In addition to the standard assessment appeals, the Board rendered decisions on appeals for Possessory Interest; Water and Sewer Special Assessments; Classification that are not in the current tax year; Homestead Exemption; and New Property Owner. These appeals cases are not "standard" cases and not automatically placed into OTR's tracking system. Instead, when one of these appeals is completed by the Board, the Board notifies OTR, and OTR manually places the decision into the tracking system.

Due to the significant increase in cases, the Board did not complete the Tax Year 2009 assessments appeals by the statutory[3] deadline of February 1st. However, for each appeal, the Board recommended a proposed assessed value of the property and prepared a detailed written statement of the basis for the recommendation that was signed by each member who participated in the hearing. The Board, then, transmitted the written recommendation to OTR as well as the petitioners. The Board notes that with the ever increasing caseload, the statutory deadline of February 1st is less attainable.

As stated earlier, the number of appeals to the Board has increased dramatically. One of the major factors has been economic conditions. Although the District's market has shown to be more resilient than many other parts of the country – the neighboring jurisdictions of Fairfax County and Montgomery County – the District is not immune to

[3] Note: There is no statutory deadline to complete Possessory Interest; Water and Sewer Special Assessments; Homestead Exemption; and Classification appeals.

the harsh economic realities. Overall, property values declined during the valuation period for Tax Year 2009; however, many proposed assessments by OTR for the same year increased. As a result, the number of appeals increased and, the Board, in each case, must attempt to ensure that the property is assessed at the fair market value.

In Tax Year 2009, there was much concern regarding the District's revenue estimate as it relates to the Board. However, when a taxpayer initiates the appeals process for their proposed property assessment, they want to be assured that the process is fair and equitable. According to section 47-825.01(g)(1) of the D.C. Official Code, "the Board shall attempt to assure that all real property is assessed at the estimated market value." It is incumbent on the Board to administer the law in an equitable manner by considering each appeal on its merit. The taxpayer should be confident that the District's revenue estimate is not a factor in the board's decision as it relates to their individual property. When the taxpayer feels that the decision was not predicated on a fair and equitable review of the facts of their appeal, they will exercise the right to go to D.C. Superior Court. This approach could be very costly to the District.

There is an item that absolutely impacts the District revenue—the 5 day rule. When OTR does not comply with D.C. Official Code 47-825.01(f-1)(6)(B)(i) which requires that taxpayer receives OTR's rationale on the proposed assessed value no later than five days prior to hearing, then the taxpayer has the right to request that OTR not to be allowed to provide information regarding the proposed assessments in the hearing. If the Board only has the taxpayer's rationale for a decrease in the assessment, it is very difficult for the Board to reach a decision that does not find for the taxpayer. The revenue impact in these cases, and has in the past, been in the millions of dollars.

Major Issues Facing the Board

The major issue for the Board is the ever increasing caseload. From Tax Year 2005 to Tax Year 2009, the number of appeals filed at the Board has increased by 64%. Commercial appeals, which are the most complex, are growing the fastest, with a 77% increase from Tax Year 2008 to Tax Year 2009. We expect this trend to continue as economic factors causing real property values to decline. The increase is driven by the growing gap between OTR assessments and the property owners' expectation of market value.

In addition, the current law governing the Board is not designed for the increased workload. With anticipated caseload of 6000 appeals for Tax Year 2010, it will be impossible to have all 6000 written decisions completed by the statutory deadline of February 1st. Work hours available between October 1st and February 1st will not allow the Board to hear 6000 appeals. The Board notes that surrounding jurisdictions, such as Arlington County and the state of Maryland, do not have this requirement regarding their decisions.

Accomplishments

In Fiscal Year 2009, the Board accomplished several important items which include:

1) Beginning the 2010 Appeals Season earlier;

2) Fulfilling the statutory requirements of the Board;

3) Improving on the Board's recording keeping – the administrative staff create systems to track the amount of appeals, the types of appeals, the board member's assignment and the complete of the appeals;

4) Implementing a training program for members – the training program focused on valuation techniques which include income, market, and cost approaches to value;

5) Enhancing the Board's website – the Board made the website more comprehensive by adding updated information on the appeals process; and,

6) Streamlining administrative processes – instituted procedural changes to expedite the appeals process.

Legislative Recommendation

On September 19, 2006, the Board of Real Property Assessments and Appeals Reform Act of 2006 became effective. One of the provisions of the law stated that "by February 1 of each year, all pending real property assessment appeals cases filed in the prior calendar year shall be finalized by the Board." Therefore, beginning in Tax Year 2007, the Board had the deadline of February 1st to complete its appeals. This 2007 deadline was very difficult for the Board to meet with a caseload of 3,206. In subsequent tax years, with ever increasing caseloads, this deadline has become increasingly more difficult to make.

With the anticipated caseload of 6000 appeals for Tax Year 2010, it will be virtually impossible to have all 6000 written decisions completed by the statutory deadline of February 1st. First, the Board does not receive the bulk of its appeals until August and September. When scheduling the hearings for the appeals, the Board must provide the petitioner and the government twenty (20) business days before the date of hearing. This means that the Board is actually conducting the majority of the hearings, which does not including deliberating and writing the decision, in November and December. In fact, as stated previously, there are not enough work hours available between October 1st and February 1st to allow for the Board to complete the hearings for 6000 appeals.

The Board notes that surrounding jurisdictions, such as Arlington County and the state of Maryland, do not have this requirement regarding their decisions. For example, the assessment boards in Maryland begin to hear appeals in March and have until

December 31st to complete caseload. The Board suggests that it has the same amount of time to complete its' caseload as the surrounding jurisdictions.

Therefore, the Board recommends amending the February 1st deadline to August 1st. By moving the deadline to August 1st, the Board would have 10 months to complete a tax season, which is would be comparable to the timeline for the surrounding jurisdictions. In addition, if the Board's decision has an impact on the tax bill of the petitioner, the Office of Tax and Revenue would have time to adjust the bill for the second half tax billing cycle, which is in September.

New Initiatives

The Board has reviewed the current filing system and has taken steps to improve the efficiency of current system in measurable ways during the Tax Year 2009 Appeals season. Beginning Tax Year 2010, all Board decisions will be displayed on our website. On a monthly basis, the Board will upload completed assessment appeal decision. By displaying the decisions on the website, the public will have greater flexibility to review the decisions. In addition, the decisions will be downloaded to a disk that will serve as electronic archive and record-keeping system.

The Board's goal is to continue to begin the next year's tax season in July. However, the budget dictates that this is a phased process.

The Board will continue to improve on the training program for members. The training program will be on valuation techniques which include income, market, and cost approaches to value.

The Board also instituted new procedures for completing the appeals.

BOARD OF REAL PROPERTY ASSESSMENTS AND APPEALS (DA)

FISCAL YEAI YEAR 2009 ANNUAL REPORT

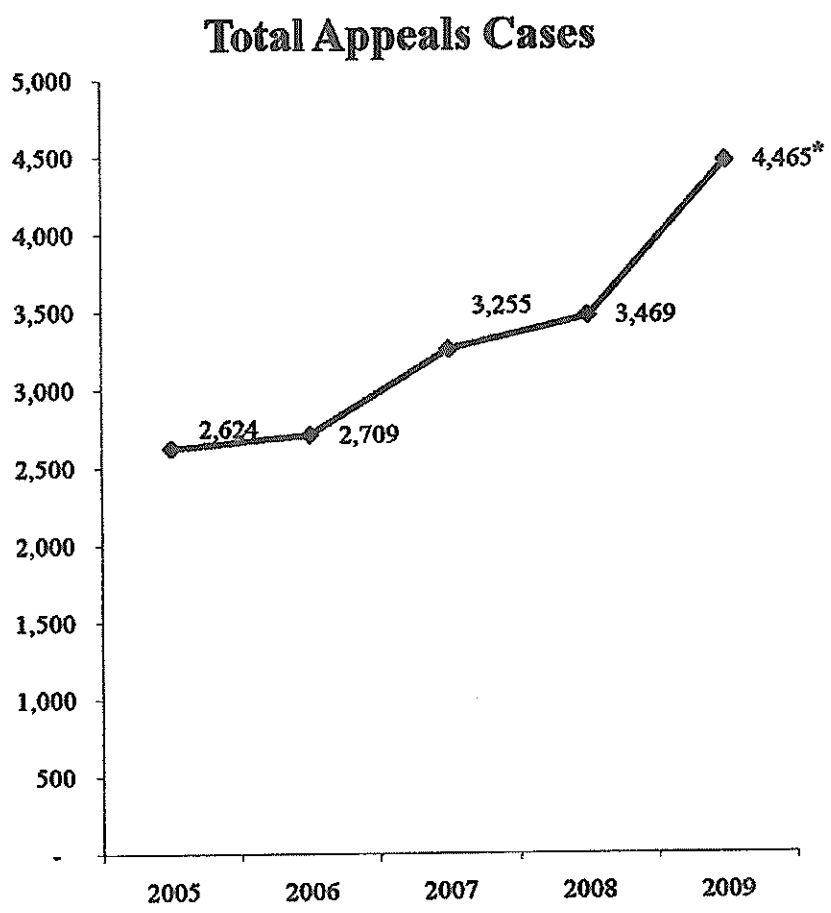
Number of Cases

Class		Sustained	Reduced	Increased	Withdrawn	Stipulation	Recommended	Total	Assessment Difference	Revenue Impact
0		15	16	0	0	21	4	56	-29,802,520	0
	Percent	*26.79*	*28.57*	*0*	*0*	*37.5*	*7.14*			
1		1,158	695	1	70	131	736	2,791	-254,187,931	2,160,597
	Percent	*41.49*	*24.91*	*0.04*	*2.5*	*4.7*	*26.37*			
2		582	605	1	52	35	94	1,369	-2,825,186,288	52,265,946
	Percent	*42.52*	*44.2*	*0.08*	*3.8*	*2.56*	*6.87*			
3		67	67	0	13	2	7	156	-56,748,470	5,674,847
	Percent	*42.95*	*42.95*	*0*	*8.34*	*1.29*	*4.49*			
*WASA/Homestead Exemption/Possessory Interest/Non-TY 2009 Classification								108		
Total								4,480		
Report Total								4,480	-3,165,925,209	60,101,390

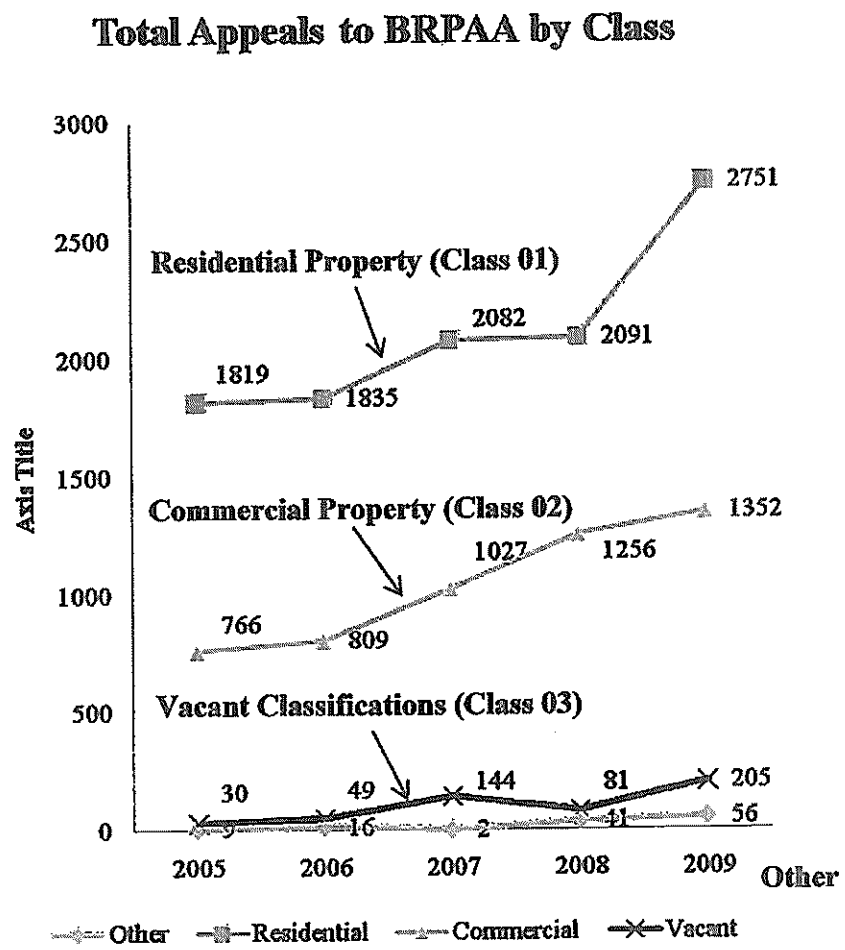
***The Board did not assign value to these appeals.**

BRPAA's Caseload

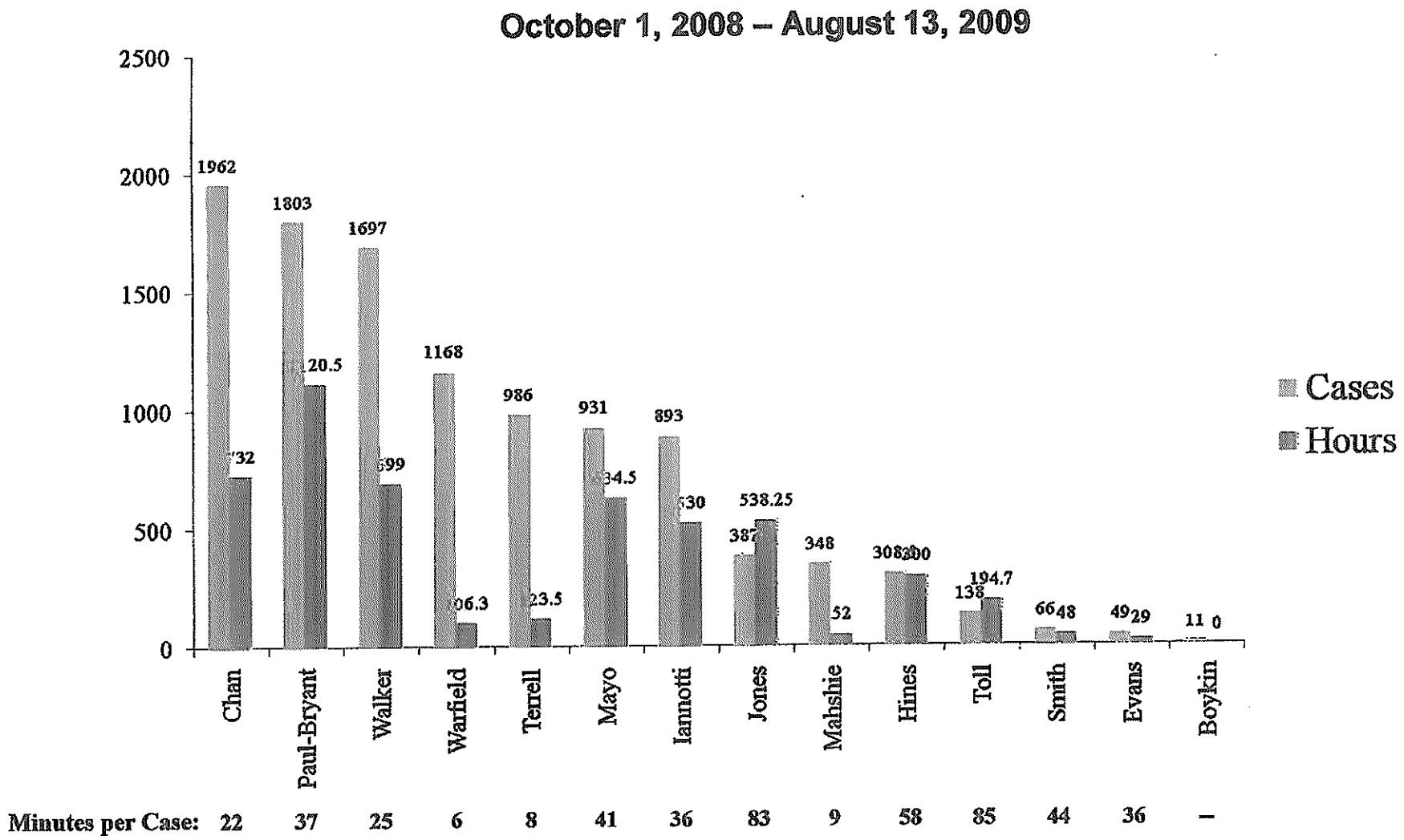
Caseload has increased 70% over last four years



Residential (+51% growth) and Commercial (+77% growth) are driving the growth



Board Members' Cases and Hours



BOARD OF REAL PROPERTY ASSESSMENTS AND APPEALS
FROM TY 10/01/2008 THRU AUGUST 13, 2009
COMPENSATION TO MEMBERS
September 22, 2009

BRPAA MEMBER	TOTAL APPEALS	TOTAL HOURS WORKED	COMPENSATION
Henry Terrell	986	128	$6,400.00
John Mahshie	348	52	$2,600.00
Sean Warfield	1,168	106.3	$5,315.00
George Toll	138	194.7	$9,735.00
Lawrence Smith	66	48	$2,400.00
Barrett Evans	49	29	$1,450.00
May Chan	1,962	733	$36,650.00
Terrence Boykin	11	0	$0
Charles Mayo	931	698	$34,900.00
Cliftine Jones	387	621.75	$31,086.50
James Walker	1,697	699	$34,950.00
Michael Hines	308	308.5	$15,425.00
Paula Iannotti	893	530	$26,500.00
Towanda Paul-Bryant	1,803	1,161	$58,050.00

NOTE: Compensation is calculated based on timesheets submitted by the BRPAA members @ a rate of $50.00 per hour.