

## **Rule 8:6. Pretrial Proceedings; Assignment to Tracks and Case Management**

### **R. 8:6-1 Discovery; Exchange of Appraisals and Comparable Sales and Rentals**

(a) Discovery. Discovery may be taken in accordance with the provisions of R. 4:10-1 through R. 4:18-2 and R. 4:22 through R. 4:25 insofar as applicable except as follows:

(1) In state tax cases (other than small claims cases) leave of court, granted with or without notice, must be obtained if a party seeks to take a deposition by oral examination prior to the expiration of 60 days after service of the complaint.

(2) In state tax cases the 180 days for completion of discovery shall commence to run on the date the answer is served. At any time the court, in its discretion or by agreement between the parties, may extend or reopen the time to complete discovery. Completion of discovery shall be coordinated with pretrial conferences and memoranda. Requests for admission shall be served in a separate document so titled and shall not be combined with interrogatories, document production requests, or any other material. All interrogatory answers shall first state the question and then beneath the question state the answer to that question. In state tax cases, discovery shall not be served or answered on eCourts Tax.

(3) In actions to review any equalization table, answers to interrogatories shall be served within 20 days from the date of service of the interrogatories.

(4) In local property tax cases assigned to the Small Claims Track under the provisions of R. 8:11, discovery shall be limited to the property record card for the subject premises, inspection of the subject premises, a closing statement if there has been a sale of the subject premises within three (3) years of the assessing date, the costs of improvements within three (3) years of the assessing date, income, expense and lease information for income-producing property and information relating to a claim of damage to the property occurring between October 1 of the pretax year and January 1 of the tax year pursuant to N.J.S.A. 54:4-35.1. The court in its discretion may grant additional discovery for good cause shown. In small claims cases, discovery shall not be served or answered on eCourts Tax.

(5) In local property tax cases, interrogatories and requests for production of documents shall be in the form and manner prescribed by the Tax Court. In local property tax cases, discovery shall not be served or answered on eCourts Tax.

(6) In local property tax cases the following time limits shall be applicable to discovery:

(i) Small Claims Track Cases. Discovery shall be completed within 75 days of the filing of the complaint. A discovery request for the items specified in R. 8:6-1(a)(4) shall be responded to within 30 days after being served with the request.

(ii) Standard Track Cases. Discovery shall be completed within 150 days of the filing of the complaint.

(iii) Complex Track Cases. Discovery shall be completed within 150 days of the filing of the complaint unless extended by the court.

(iv) Expedited Track Cases. Discovery shall be completed within the time set by the court.

(v) Farmland and Exemption Track. Discovery shall be completed within 150 days of the filing of the complaint.

(b) Exchange of Appraisals and Comparable Sales and Rentals. Where the valuation of property is an issue:

(1) A party intending to rely upon the testimony of any person testifying as a valuation expert must furnish an expert report containing the information in R. 8:6-1(b)(2). A party intending to rely upon the testimony of any person testifying as a valuation expert shall furnish each opposing party with a copy of the written appraisal report of the expert as follows:

(i) Standard Track Cases. Thirty (30) days prior to the trial date as designated by the court. The submission of this written appraisal report is in addition to the requirement that plaintiff's counsel furnish an appraisal or a demand for reduction in assessment with support therefore to counsel for defendant pursuant to R. 8:6-8.

(ii) Small Claims Track. Twenty (20) days prior to the trial date set forth in the case management notice or 20 days prior to such other trial date as designated by the court.

(iii) All Other Track Cases. As directed by the court.

(iv) The court in its discretion may grant additional time for discovery following the exchange of appraisal reports.

(2) A party intending to rely on sales or rentals of comparable properties shall furnish each opposing party with a list of comparable sales or rentals intended to be established by proof which list shall set forth as to each sale or rental the location of the property by block, lot, street, street number and municipality and, as to each sale, the name of seller and purchaser, date of sale, the consideration, book and page number of the recording of the deed and, if available, the form SR1A identification number of the Division of Taxation and, as to each rental, name of landlord and tenant, date of lease and relevant lease terms. Such list shall be submitted as directed by the court or as follows:

(i) Standard Track Cases. Thirty (30) days prior to the trial date as designated by the court.

(ii) Small Claims Track. Twenty (20) days prior to the trial date set forth in the case management notice or such other trial date as designated by the court.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979. Amended July 8, 1980 to be effective July 15, 1980; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended and caption amended July 15, 1982 to be effective September 13, 1982; paragraph (b)(1)(iii) adopted July 22, 1983 to be effective September 12, 1983; paragraph (a)(4) adopted November 5, 1986 to be effective January 1, 1987; paragraph (a)(5) adopted July 13, 1994 to be effective September 1, 1994; paragraphs (b)(1)(i) and (b)(1)(ii) amended July 10, 1998 to be effective September 1, 1998; new paragraph (a)(1) added, former paragraphs (a)(1), (a)(2), and (a)(3) amended and redesignated as paragraphs (a)(2), (a)(3), and (a)(4), and former paragraphs (a)(4) and (a)(5) redesignated as paragraphs (a)(5) and (a)(6) July

12, 2002 to be effective September 3, 2002; Rule 8:6 caption amended, paragraphs (a) and (b) amended July 9, 2008 to be effective September 1, 2008; paragraphs (a)(2) and (a)(4) amended July 22, 2014 to be effective September 1, 2014; subparagraphs (a)(2) and (a)(5) amended July 27, 2018 to be effective September 1, 2018; subparagraph (a)(4) amended July 31, 2020 to be effective September 1, 2020.

### **8:6-2. Pretrial Conferences**

(a) Local Property Tax Cases. Pretrial conferences may be held at the discretion of the court either on its own motion or on a party's written request. The request of a party for a pretrial conference shall include a statement of the facts and reasons supporting the request. The court, on its own motion or at a party's request, may direct that a pretrial conference be conducted by telephone. In those cases in which a pretrial conference has been scheduled, each party shall file with the court and exchange with each other party its pretrial memorandum no less than seven (7) business days before the pretrial conference. The pretrial memorandum shall be in the form prescribed by the Tax Court.

(b) State Tax Cases. Pretrial conferences may be held pursuant to R. 4:25-1, et seq. There shall be no separately scheduled pretrial conferences for small claims division matters, except for good cause.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979; amended July 15, 1982 to be effective September 13, 1982; former text designated as paragraph (b), paragraph (b) caption adopted, and new paragraph (a) adopted July 9, 2008 to be effective September 1, 2008.

### **8:6-3. Failure to Make Discovery.**

The provisions of R. 4:23-5 shall apply to proceedings in the Tax Court except that the delinquent party shall pay the required costs to the Clerk of the Tax Court.

**Note:** Adopted July 8, 1980 to be effective July 15, 1980; caption amended July 12, 2002 to be effective September 3, 2002.

### **8:6-4. Local Property Tax Cases; Tracks and Subtracks; Standards for Assignment**

Every local property tax action filed in the Tax Court shall be assigned, as prescribed by this rule, to the standard track, the complex track, the expedited track, the farmland assessment and exemption track, or small claims track, in accordance with the following criteria:

(a) Standard Track. An action not qualifying for assignment to the complex track, \ farmland assessment and exemption track, small claims track, or expedited track shall be assigned to the standard track.

(b) Complex Track. An action shall ordinarily be assigned to the complex track for individual judicial management if it appears likely that the case will require a disproportionate expenditure of court and litigation resources in its preparation for trial by reason of the number of parties involved, the number of claims and defenses raised, the legal difficulty of the issues presented, the factual difficulty of the subject matter, or a combination of these or other factors.

(c) Expedited Track. An action shall ordinarily be assigned to the expedited track where

specific disposition times are imposed by statute or where it appears that tax policy considerations as reflected in the statutes or court rules demonstrate that a summary proceeding would be more appropriate than a plenary trial.

(d) Farmland Assessment and Exemption Track. An action involving the review of a farmland assessment, rollback tax assessment and/or exemption shall ordinarily be assigned to the farmland assessment and exemption track.

(e) Small Claims Track. An action shall ordinarily be assigned to the small claims track if it is indicated on the case information statement that the matter is within the small claims jurisdiction pursuant to R. 8:11.

After track assignment has been made, the special procedures prescribed by these rules for each track governing such matters as discovery, motion practice, case management and pretrial conferences and orders, and the fixing of trial dates shall apply.

**Note:** Adopted July 9, 2008 to be effective September 1, 2008.

#### **8:6-5. Local Property Tax Cases; Track Assignment**

The Tax Court Management Office shall advise the parties of the track assignment. At the discretion of the Presiding Judge, the track assignment may be advanced or delayed. If all attorneys agree as to the appropriate track assignment, the assigned judge shall not designate a different track except for good cause and only after giving all attorneys the opportunity to object, either in writing or orally, to the proposed designation. If all attorneys do not agree, the designation shall be made by the assigned judge. If it is not clear from an examination of the information provided which track assignment is most appropriate, the case shall be assigned to the track that affords the greater degree of management.

**Note:** Adopted July 9, 2008 to be effective September 1, 2008.

#### **8:6-6. Local Property Tax Cases; Case Management Notice**

After the filing of a complaint, the Tax Court Management Office shall forward to the parties a case management plan in the form specified by the Tax Court. If the case has been assigned to the standard, small claims, or farmland and exemption track, the case management plan shall state the date by which discovery is required to be completed pursuant to R. 8:6-1(a), the anticipated month and year of trial, the name of the case manager, and the requirements for case management and settlement conferences. The case management plan shall also advise that each party, including subsequently added parties, may apply for track reassignment pursuant to R. 8:6-7.

**Note:** Adopted July 9, 2008 to be effective September 1, 2008; amended paragraph July 31, 2020 to be effective September 1, 2020.

### **8:6-7. Local Property Tax Cases; Track Reassignment**

An action may be reassigned to a track other than that specified in the case management notice on application of a party or on the court's own motion. The application may be made informally to the assigned judge and shall state with specificity the reasons why the original track assignment is inappropriate. No formal motion for track reassignment is required unless the assigned judge so directs. Any such application shall be made not later than the date of filing of the mandatory settlement conference report pursuant to R. 8:6-8. A copy of such application shall be served on all parties and any objections to such application shall be submitted to the assigned judge within 10 days of that service.

**Note:** Adopted July 9, 2008 to be effective September 1, 2008.

### **8:6-8. Local Property Tax Cases; Mandatory Settlement Conference**

In all local property tax cases assigned to the standard track, the parties shall hold a mandatory settlement conference not later than four (4) months before the scheduled trial month as set forth in the case management notice. The date for the mandatory settlement conference shall be fixed by the designated case manager and shall be provided to the parties in the form specified by the court. Counsel for all parties and the assessor or the taxing district's appraisal consultant shall be present at the mandatory settlement conference, which may be conducted by telephone or in person at the office of the municipal assessor or such other place as agreed upon by the parties. At least seven (7) days prior to the date fixed for the mandatory settlement conference, plaintiff's counsel must furnish to defendant's counsel an appraisal by plaintiff's appraisal expert in the form specified by the court or a demand for reduction in assessment with support therefor. Results of the mandatory settlement conference shall be reported by the parties to the case manager in the form specified by the court within ten (10) days of the mandatory settlement conference. The mandatory settlement conference report shall include certifications that initial standard form interrogatories have or have not been served and answered by each party. The parties shall have ten (10) days from the date of notice of noncompliance to comply with the requirements of this rule. The failure of any party to receive a notice of noncompliance shall not relieve that party of the duty to comply.

**Note:** Adopted July 9, 2008 to be effective September 1, 2008.