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### Introduction (The Supreme Court & Local Government Law: The 1988-89 Term)

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# TOURO LAW REVIEW

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## INTRODUCTION

*Dean Howard Glickstein:*

I think the success of our conference today, and it is a sell-out, has suggested to some people that, since we have done so well in the suburbs, we should bring this to New York City next season. I assure you that we will keep the conference here. This is the first major activity of the Institute of Local and Suburban Law, which Touro Law School established earlier last year. Through this Institute, we will make a great contribution, not only in the area in which we are located, but throughout the country as well. Judge Leon Lazer is the director of the Institute. We are fortunate to have Judge Lazer with us. As you may know, he was a member of the New York State Supreme Court, served in the Appellate Division, and is a leading authority in State and Municipal Law. Having left the bench and having been with many of the leading New

York law firms, he is going through the agony and pain of adjusting to life in academia. Judge Lazer is responsible for this program. I think it is going to be a very stimulating program, and I am very happy to present Judge Lazer to you.

*Judge Leon Lazer:*

This seminar is going to be exciting. The program will include formal speeches as well as questions from members of our panel of inquiry. The chairman of our panel is Alfred Blumrosen, Professor of Law at Rutgers/Newark Law School. He has had a very long and distinguished career, particularly in the equal employment field. At the start of his career, he was Director of Federal-State Relations, Chief of Conciliation at the United States Equal Employment Opportunity Commission, and Advisor to the United States Departments of Labor, Justice, and Housing and Urban Development. He also has been counsel to a well-known law firm and is the author of many articles.

Serving with Professor Blumrosen are two of the stars of our faculty, and we are very proud that they have joined us. Professor Eileen Kaufman has written extensively in the civil rights field. She is a New York University law graduate and served for a number of years with Westchester Legal Services. She has taken part in major litigation involving governmental benefits and is Chairman of the Public Interest Law Committee of the New York State Bar Association. More important, she is a reporter for the New York State Pattern Jury Instructions Committee, with which, as you know, I have some affiliation.

Gary Shaw is a favorite professor here at Touro. He is a graduate of John Marshall Law School, a frequent lecturer on the first amendment, and he has lectured at Columbia University on the constitutional aspects of environmental law. You can see him frequently on Channel 12 ("News 12 Long Island") commenting on constitutional issues.

I thank the three of you for being here and expect extremely pointed questions from you.

In order to get the program started, I am going to discuss *Allegheny Pittsburgh Coal Co. v. County Commission*.<sup>1</sup> The case is very important because it demonstrates the significance of Supreme Court decisions and their relevance to local law. In this case, the Court dealt with a practice familiar to Long Islanders. The assessor takes a deed, looks at the stamps, and gives the buyer of the house a new, gigantic assessment based on what the buyer is paying for the property.<sup>2</sup> The assessor does not reassess anyone else's property, only that of the new buyer who, after all, represents only one, or maybe two, votes.

In *Allegheny Pittsburgh*, a case out of West Virginia, the assessor in Webster County looked at the deeds and fixed new assessments, which were eight to thirty-five times as high as those of comparable neighboring properties.<sup>3</sup> The challenge ultimately went to the Supreme Court, where, with Chief Justice Rehnquist writing, the Court unanimously held that the practice constituted a deprivation of equal protection under the fourteenth amendment of the United States Constitution unless the assessor, within a "short time," reassessed and adjusted the assessment of the comparable neighboring properties.<sup>4</sup> I will read to you just one sentence from the case. "The relative undervaluation of comparable property in Webster County over time therefore denies petitioner the equal protection of law."<sup>5</sup> So, you see, the Supreme Court is important even in real property assessment cases.

Several months before *Allegheny Pittsburgh*, the Second Department of the New York Appellate Division, in a decision by Justice Thompson, ruled the same way, except that Justice Thompson's decision held the practice of the assessor in the Village of Atlantic Beach to be unconstitutional as a deprivation of equal protection under both the federal and state constitutions.<sup>6</sup> The assessor appealed, but when the Supreme Court

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1. 109 S. Ct. 633 (1989).

2. *Id.* at 635.

3. *Id.* at 638.

4. *Id.*

5. *Id.* at 639.

6. *Krugman v. Board of Assessors*, 141 A.D.2d 175, 184, 533 N.Y.S.2d 495, 501 (2d Dep't 1988).

decision came down, the appeal was dropped. So, clearly, that invidious practice of assessing property, based solely on the evaluation the buyer, himself, put on the property, is unconstitutional unless the assessments of comparable properties are adjusted similarly.<sup>7</sup>

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7. See, e.g., *id.* at 184, 533 N.Y.S.2d at 501; *Allegheny Pittsburgh Coal Co. v. County Comm'n*, 109 S. Ct. 633 (1989).