

The Value of a Real Estate Tax Appeal

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Greenbaum, Rowe, Smith & Davis LLP Client Alert

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Before this recession, many property owners overlooked a fruitful area for reducing costs by failing to challenge the basis on which real estate taxes are assessed. A real estate tax reduction is not automatic. The burden of proof rests with the party challenging the assessment. The fact that a widespread decline in value is “general knowledge” is not sufficient to convince a court that a reduction in assessment should be granted.

A tax appeal is generally warranted where (1) the assessment is in excess of the fair market value of the property, or (2) the assessment is discriminatory as compared to the average level of assessment for all other property in the same municipality. For example, even if property is assessed at its fair market value, an appeal may be appropriate because the general level of assessments for a particular town may be less than 100% of fair market value. The reliance on comparable sales and/or comparable rents in this process may be difficult because recent transactions may be scarce or non-existent.

In the current environment, owners of industrial, commercial and multi-occupancy properties may find a tax appeal appropriate.

The Appeals Process and Examples

Most tax appeals settle. In fact, the Tax Court rules now mandate that the parties participate in a settlement conference. Recent settlements in which the firm represented the property owner have involved various types of properties:

- 160-unit apartment complex - assessment reduced by 13% from \$4,672,600 to \$4,050,000.
- Assessment of 117 room hotel reduced by 34% from \$4,319,400 to \$2,844,200.
- 80,000 square foot multi-tenanted office building – assessment reduced by 46% from \$8,000,000 to \$4,250,000.

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- Shopping center assessment reduced by 30% from \$2,275,000 to \$1,587,800.

When the Parties Cannot Settle

On occasion, the difference between the owner's and the town's estimates of market value cannot be reconciled. In those cases, formal appraisals are exchanged and the parties prepare for trial. Recent tax court trials in which the firm represented the property owner have resulted in substantial assessment reductions and tax refunds:

- Rollback taxes were imposed on 100 acres of vacant land previously assessed as farmland, which were sold to a residential builder. The tax bill was in excess of \$500,000. The owner argued, and the Tax Court agreed, that the status of governmental approvals was critical to the value determination. The Tax Court made a substantial adjustment in the sale prices of the comparable sales for the subject properties' lack of approvals and reduced the taxes by \$150,000.
- A 200,000 square foot multi-tenanted office building was revalued for \$30 million. After trial, the Tax Court reduced the assessment to \$19 million.

The filing deadline is April 1 for tax year 2011, unless the town completed a reassessment or revaluation, in either of which events the filing deadline is May 1.

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