



Battling Excessive Taxation in Economic Downturns

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Two problems now plague Ohio commercial property owners. First, the economic troubles faced by the entire nation also exist in Ohio. Second, the state is one of the very few that permits school districts to intervene in the assessment process.

In almost every commercial assessment hearing, school boards are present, making it virtually impossible for the Board of Revision to continue working toward its original goal, to find efficient ways to correct assessments. Instead, due to the school boards' involvement, tax cases may, and often do, take several years to come to resolution. This presents a real problem for over assessed property owners suffering from vacancies.

Take for instance an office or retail building that experienced a large drop in occupancy just as the market began to soften. Tenants staring into the face of a recession always put on their cost cutting hats. They look carefully at total occupancy costs, not just the rent, and this creates an obstacle for them in signing a lease. The problem is that at a time when taxpayers need fast tax relief in order to attract tenants, school boards seek to protect the tax base, causing prolonged litigation.

Taxpayers, Take Action

In this continuing economic downturn, taxpayers need to focus on those expense items that offer a real opportunity to positively affect the bottom line. All too often, taxpayers fail to recognize that property taxes fall into this category. Every dollar spent on property taxes removes resources that could help to increase sales and/or provide greater efficiency of operation. Thus, taxpayers need to carefully examine their tax assessments and determine whether a tax appeal should be filed. And time is not on the taxpayer's side, as tax complaints must be filed in Ohio before March 31, 2009.

The larger southern (Cincinnati area) and central counties (Columbus and Dayton areas) have reassessed for the 2008 tax year. Summit County also reappraised for 2008. The final new values will appear on the first half 2008 tax bill payable at the beginning of 2009.

Property owners in these three areas face a difficult challenge because the data available for reappraisal reflects the peak of the real estate market, not the downturn precipitated by the credit crunch. In counties such as Cuyahoga, Lorain and Lake, assessments continue to be based on the high 2006 values. In all these areas, taxpayers are likely to receive excessively high assessments, which need to be appealed.

Despite the abundant news coverage indicating that real estate continues to sit without being sold, taxpayers will encounter strong opposition when they try to obtain corrections in their assessments. In order to meet this opposition head-on, well-documented arguments for tax relief become a necessity. In some instances that means providing the county Board of Revision with income and expense information and/or comparable sales; in others it may mean submitting an appraisal with testimony from an appraiser.

Unfortunately, it takes more than a well thought-out and documented argument to win a tax appeal, as school districts who receive the lion's share of the property tax revenue will strongly defend their tax base. Therefore, a taxpayer may be successful at the county Board of Revision only to find that the local school board has appealed the decision to the State Board of Tax Appeals.

At this point, the schools' attorneys get the opportunity to investigate taxpayers' evidence and they investigate for months or even years, casting the widest net possible in their fishing expedition. Since school attorneys are not assessors, nothing requires them to seek fair taxation for owners, so they may aggressively seek the highest assessments for their districts.

A critical step in the appeal process involves learning about the attorneys hired by the school districts, how receptive these attorneys may be to determining a fair tax assessment and how predisposed they are to giving the taxpayer a hard time versus looking for a win-win solution. By understanding the adversary, the taxpayer gains some perspective on how to negotiate with the school districts' attorneys.

While owning commercial real estate remains a sound long-term investment, in a down market owners need to diligently scrutinize the basis used by the assessor in determining their property tax assessments. Changes in the economy and financing can dramatically impact the value of real estate. Failure to file tax appeals when appropriate can cost owners tens of thousands of dollars in excessive taxes.



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