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Easing the Stress of Distressed Properties

"By being informed, vigilant and flexible, owners can make their taxes more manageable."

By Linda Terrill, Esq. - as published by **Real Estate Forum** - April 2010

Whether a distressed property is underwater, held by a lender or somewhere in the bankruptcy process, it is important to be aggressive about lowering holding costs. Other than debt service, a property's largest expense is likely the property tax bill, and the right approach can help to rein in that tax burden.

It is never too early to start the process of whittling down a tax assessment. Confer with your tax counsel and visit the county assessor prior to the values being mailed out. Learn all the appeal deadlines.

Advise your tenants of efforts to get the taxes reduced and seek permission to disclose any helpful information such as declining sales per square foot, occupancy costs and changes in lease terms. Disclose to the assessor all lease modifications and rent concessions. Let them know if any tenants are significantly behind in rent payments. Disclose any discussions with your lender about adjusting the repayment terms of your mortgage.

Don't be fooled by a valuation notice showing a decline in value. Lower values may not translate into lower taxes. Plan to have your property appraised by an expert, and interview several appraisers before selecting one for the job.

Keep in mind that local governments are struggling financially. Dramatic drops in real estate values, coupled with little or no new construction have contracted tax bases everywhere.

Think creatively and offer to work with the assessor to reach a mutually agreeable arrangement. That could mean offering to take any refund due as a credit forward. See if the county would agree to less of a reduction in the current year in exchange for a more significant reduction in 2011. If possible, convince the assessor to split the cost of hiring an independent appraiser and agree to accept the conclusion of value.

Beyond the preceding owner strategies, lenders that have taken ownership of a property should consider a few additional measures. Have tax counsel review the portfolio to identify which valuations should be appealed. Remember the list price may become the market value, so be realistic in pricing the property. Extend transparency to potential buyers, disclosing all efforts to get the tax load reduced. Should the property sell while awaiting an appeal hearing, the sales price may form the basis of a settlement.

Bankruptcy proceedings introduce additional opportunities to slash taxes. If the property is involved in a bankruptcy, the taxpayer can initiate litigation to reduce taxes. In some cases, delinquent taxes can be reduced, and normal appeal deadlines may not apply. In any case, be prepared with an appraisal.

By being informed, vigilant and flexible, owners can make their taxes more manageable. And make the effort to appeal: Remember that market values may fall further before they turn around.

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