

Perspectives

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Perspectives offers ideas, concepts and methodologies for property tax reductions

Office Building Property Taxes Remain High

Presenting The Right Arguments Can Often Win Tax Reductions

The commercial office building market is in crisis with challenges pushing in from all sides. As debt pressures increase and tenants become harder to find, property owners' problems are intensified by the crushing burden of their real estate taxes. And some jurisdictions still continue to increase property taxes.

Take Action

As an office property owner, your reaction should be to consider filing a property tax appeal. In most jurisdictions strict statutes of limitation deadlines and detailed procedures exist regarding appeals. You need to gather the facts and arguments that show how your property has declined in value and how your income has fallen. A recent income and expense statement and a detailed rent roll are

indispensable. The following offer a number of facts and arguments to consider in presenting your case to the assessor.

Reduced Value Arguments

Since assessors look at a hypothetical sale value for your property, recent comparable sales of office properties often provide important indicators of that value. The credit freeze makes refinancing or new borrowing extremely difficult. Thus, selling a property becomes all but impossible.

Consequently, the lack of recent sales strongly demonstrates the loss in market value. You should argue that sales which took place early in 2008 are irrelevant to current values, since the market has changed so dramatically. The magnitude of

the decline becomes the subject of a negotiation conducted by you and your property tax representative with the assessor or the review board.

Outline in detail vacancies and rent arrearages taking place at your property or even in competing properties. High vacancies in the marketplace mean lower rents on renewals and a risk that your tenants may leave or that vacancies will not be eliminated. Rent arrearages and defaults may be of recent origin and the taxing authority may not be aware of these changes when your assessments were estimated. Showing current rent rolls or recent collection declines go a long way toward proving lower values.

In a declining market, vacancies are not an opportunity to achieve a higher renewal rent but quite the opposite, a harbinger of tough times ahead. Often statisticians' rent studies use out-of-date or largely incomplete data. However, you provide the best source of documents to illustrate the loss of value on your buildings.

If your property caters to a specialty segment of the economy, this could argue for a

reduced value. Your potential pool of tenants is smaller and vacancies may be more pronounced for longer periods; worse still, your industry may be in decline. In your presentation to the assessor, be sure to explain the rent concessions, new base year tax stops, tenant improvements and other give backs to new tenants as well as specialty market problems that have taken place at your property.

Falling Income Arguments

You may need to promise significant building upgrades to secure new tenants. Some landlords commit to doing these upgrades in order to make their buildings stand out in the market. These costs obviously erode the profitability of the property and should be taken into account by deducting or amortizing them as an additional expense item. Often, GAAP accounting leaves out these elements.

A growing default rate now plagues many classes of tenants, which include retail, restaurants, hedge funds, law firms, charities, banks and other financial institutions. The presence of these tenant classes on your rent roll makes your income stream suspect. If prospective purchasers feel these tenants have a higher likelihood of going under or downsizing or asking for rent reductions, then the price they might pay for your property would be far lower than assessors' expectations. Therefore, your assessment should be lower even if your income has not yet dropped.

Collective bargaining agreements and operational costs of all kinds have increased, lowering profit

margins. Age and condition reports should be made available to assessors, since they support rising maintenance and repair costs. Then, too, municipalities sustain increasing costs, which they pass on to your buildings and at the same time they reduce services such as police and sanitation, which affect value.

Compile and document costs for needed capital improvements to upgrade your property's infrastructure, such as elevators, cooling towers, emergency power generators, sidewalk replacement, façade and window replacement, mold and asbestos remediation. The value of your property is impacted even if you haven't spent the money yet. You can bet the hypothetical purchaser will deduct this from the price he would be willing to pay.

No one questions the greater risk of owning office properties today, given the changing debt/equity ratios and scarce credit. Thus, capitalization rates are

clearly on the rise. By how much, that's a major issue to be fought out with the taxing jurisdiction.

Today, in all likelihood, external conditions in your locality signal a significant change in market values because major employers that once acted as catalysts for market growth are faltering. Wherever we look, manufacturing, advertising, home building or financial institutions, we see plants and businesses closing, personnel lay offs, consolidations and businesses moving away.

These economic dislocations cause a snowball effect on so many other businesses, resulting in lower demand for office space, lower rents and higher vacancy for a long time into the future. These are not speculative events. They have already impacted your properties.

The time to demand a substantial cut in tax values is now because your values may have declined 40 to 50% already, but your taxes have not fallen appropriately.

American Property Tax Counsel (APTC) is the only national affiliation of property tax law firms in the U.S. and Canada. Our member firms have represented more than 200 of the Fortune 500 and over 25 of the 50 largest REITs in property tax appeals at the administrative level and in the courts. The organization focuses on developing cutting edge strategies to reduce property taxes and works at state and local government levels to push these new concepts to acceptance.

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