

# PROPERTY TAX UPDATE

*Illinois Member Law Firm of American Property Tax Counsel,  
The National Affiliation of Property Tax Attorneys (APTC)*

FISK KART KATZ and REGAN, *Ltd.*  
FALL, 2002

## **The Business Value of Senior Housing Should not be Taxed as Real Estate**

The scope of long term health care services is expanding to meet the needs of America's 75 years and older population. For this group, the assisted living model is a relatively new and widely popular option.

The proliferation of this emerging form of senior housing raises very important questions for the assessing community, which must value them for real estate tax purposes. An assisted living facility, much like a hotel, is first and foremost an operating business. The real estate in which the business is located constitutes only one asset that contributes to the business' bottom line. The value of the business cannot be subject to real estate taxes. Only the value of the land and buildings may be used to determine real estate taxes.

An assisted living operation offers a lifestyle, a wide range of services, and insurance for the future (a business). To deliver most of its services, the operator must be licensed by the Illinois Department of Public Health (IDPH). In addition to providing shelter (real estate), an assisted living center provides numerous personal services such as:

1. Medication management
2. Incontinence management
3. Personal laundry
4. Daily housekeeping
5. Transportation for shopping/outings
6. Recreation

From the valuation standpoint, the business relies on various assets to accomplish its goals. There are the real estate assets, but there is also a significant amount of special equipment and the licenses that allow for the myriad

of services which contribute significantly to the assisted living center's revenues. We have three distinct elements that contribute to the value of the business: 1. real estate; 2. furniture, fixtures, and equipment; and 3. business assets such as licenses and other services. Only the real estate can be taxed.

A new and realistic approach to the valuation of the real estate element of an ongoing business such as assisted living centers has been developed by the Appraisal Institute. It offers a methodology for valuing the total assets of the business and then deducting the value of each of the non-real estate elements of a business to arrive at a value of only the real estate. In the interest of fairness, it is the responsibility of the assessing community to pursue this new methodology assiduously. Seniors deserve every consideration possible.

## **Cook County 2002 Reassessment Schedule**

This year Chicago's South and Southwest suburbs are reassessed as part of the regular Cook County triennial reassessment cycle.

Reassessment notices have been mailed for all Townships except: Bloom, Thornton, Hyde Park, South Chicago and West Chicago.

- Please contact our office immediately, in the event that you receive any notice from the Cook County Assessor. Filing windows are short and a response to notices must be made in a timely manner in order to preserve the right to seek a reduction from the Assessor.

- Should there be any change in the condition of your properties, if construction or renovation is planned, or a sale is contemplated, contact us and we will address those conditions as part of the complaint process.

Visit our Web Site at [www.proptax.com](http://www.proptax.com) and American Property Tax Counsel at [www.aptcnet.com](http://www.aptcnet.com)



Through APTC, FKK&R provides clients with one source offering the unique combination of experienced, local property tax representation as well as Internet accessible centralized reporting on all of the properties in their portfolio.

## Firm News

Jim Regan recently received a service award from the American Property Tax Counsel (APTC) at the APTC Industrial Property Seminar held on October 25-26. The APTC recognized Jim for his role and many contributions in organizing, coordinating and chairing APTC seminars since its inception in 1993.

### American Property Tax Counsel News

#### • *2002 Seminar*

APTC'S 2002 Seminar took place at the Phoenician in Scottsdale on October 25th and 26th. The seminar covered the latest developments in segregating and quantifying intangibles in industrial properties and commercial office buildings. Sessions included a review of the standards established by the Appraisal Foundation for the valuation of real estate that require appraisers to identify, segregate and quantify intangible assets which are found in commercial and industrial properties. The Appraisal Institute, the licensing body for real estate appraisers, has developed a new course to aid appraisers in this task. The course developers, along with other leading academics, made presentations on these and related topics. Feedback from participants confirm the timeliness and relevance of the subject matter as an effective approach to reducing real estate taxes.

#### • *Indiana General Reassessment*

The March 1, 2002 statewide real estate tax reassessment is currently underway. Assessment notices which will apply to taxes payable in 2003 and the three years thereafter will be sent out after the November election. Assessors will send out assessment notices on an ongoing basis through the Spring of next year. Appeals must be filed within 45 days of the date on the assessment notice.

### Chicago Office Markets Show Continued Weakness

It should come as no surprise that local office markets show continued weakness given the state of the economy. Demand for office space is still depressed with a significant inventory of subleased space. Leasing activ-

ity has been characterized by renewals, relocations and consolidations. In fact, according to U.S. Equities research, three of the four largest CBD lease transactions of the second quarter were renewals.

The suburban office submarkets are also experiencing softness, as exemplified by the Northwest suburban submarket. New construction in this submarket is bringing approximately 450,000 square feet onto the market and net absorption year-to-date is negative 700,000 square feet.

Given these market conditions, assessment reductions are possible based on a showing of persistent vacancies. Office building owners and managers should preserve detailed rent roll records on a monthly basis in order to support vacancy claims to the assessor.

*This article originally appeared in GlobeSt.com.*

### Ordinance Level of Assessment Upheld by Court of Appeals

On August 20, 2002, the Illinois Appellate Court issued a decision in a dispute pitting Cook County against the State of Illinois over the County's real estate tax assessment process.

For real estate tax purposes, Cook County, by Ordinance, assesses properties at different rates. For example, industrial and commercial properties are, respectively, assessed at 36 and 38% of market value. The Illinois Department of Revenue's annual studies have shown that Cook County has consistently under assessed commercial and industrial properties by approximately 20% and residential properties by even more. Based on those studies, the State of Illinois' Property Tax Appeal Board (PTAB) arrived at 1997 assessed values by using the actual assessment levels as determined by the State's study rather than the level prescribed by the County Ordinance. The County appealed these decisions to our appellate court sitting in Chicago.

What would have modified the County's procedures and redistributed tax burdens has been reversed by the Court in favor of the County's classification schedule.