

PROPERTY TAX UPDATE

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

FISK KART KATZ and REGAN, Ltd.

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TENNESSEE TAX COURT ISSUES FAR REACHING DECISION ON VALUATION OF CERTAIN PROPERTY TYPES

A recent decision out of the Tennessee tax court has corrected an inequity in the real estate assessments of hotels. More importantly, the decision represents judicial approbation of a real estate valuation model that extends beyond hotels to a whole group of business types in which the real estate assets are an integral part of the operations of a business. In addition to hotels, such business types as assisted living facilities for seniors, nursing homes, bowling alleys and regional shopping centers should be included in this category.

It has long been recognized by the Appraisal Institute and the International Association of Assessing Officers that hotels are the prototype of this business type, which combines real estate assets, furniture, fixtures and equipment and business operations including a trained workforce, specific management skills and brand affiliation to form a going concern. It is clear to everyone that the purchase price of an ongoing hotel will be evidence of a hotel's going concern value and not its real estate value. The dispute has been centered on how to value only the real estate assets for real estate tax purposes. Traditionally, assessors have deducted the management and franchise fees expenses from the hotel's gross earnings to extract the value of intangible business assets. The obvious response to such an approach is that management and franchise fees are legitimate expenses that should be extracted from gross earnings to determine the going concern value of the hotel not the value of the hotel's real estate. The Appraisal Institute has endorsed a methodology to extract the value of the management component and the brand name from the going concern value to arrive at a more accurate determination of the value of the hotel's real estate component.

This is precisely the methodology approved by the Tennessee tax court. Our member firm in Tennessee litigated that case and we should make note that our firm has been successful in using this same model in Illinois. *If you are interested in obtaining the Tennessee decision, please feel free to contact Linda Frattura in our office at 312-726-1833.*

2003 REASSESSMENT SCHEDULE

Cook County

Just as one door closes, another opens. Over the past several months, the Cook County Assessor has been accepting assessment appeals on a rolling basis according to township. Few townships now remain open for appeals. However, the Board of Review, a quasi-judicial forum, announced it is now opened some townships for appeal and will continue to issue rolling appeal deadlines, again by township, over the upcoming months. Consequently, if you missed the opportunity to appeal your assessment with the Assessor, you may still have an opportunity to appeal to the Board of Review.

In Illinois, the Board of Review is an important forum for any future appeals. One must have appealed to the Board of Review to appeal to the state Property Tax Appeal Board (PTAB).

One procedural change the Cook County Board of Review instituted for 2003 relates to Owner Lessee Verification Forms. A form must be filed with each appeal complaint. This form is similar to the form required by the Assessor and serves the same function. However, the Cook County Board is insisting that an Owner Lessee Verification form be completed and original signatures submitted. Consequently, the customary practice of faxing documentation is curtailed. Allow for additional time in sending your documentation via mail.

Collar Counties

For properties outside of Cook County, the Board of Review is also an available forum. Many County Boards of Review have already opened for appeals. For many counties, the appeal windows are often short and the administrators are often inflexible. Consequently, if you plan to appeal your downstate or collar county properties begin preparing early.

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.

INDIANA GENERAL REASSESSMENT FOR 2002 - REAL ESTATE TAXES PAYABLE IN 2003

Allen County (Fort Wayne) is scheduled to issue its reassessment notices by year end 2003. Assessment appeals must be filed within 45 days of the notice date.

Lake County (Gary- Hammond -Hobart - Merrillville, et al) is mailing reassessment notices by township on the following schedule with appeal deadlines of 45 days after the notice date:

Early November

- St. John Township
- Ross Township
- Hobart Township

Mid-November

- North Township

Early December

- Calumet Township

Lake County, unlike the rest of the state, is not being reassessed by local assessing officials. Instead, Indiana lawmakers passed legislation requiring Lake County to be reassessed by an independent outside contractor. Cole Layer Trumble (CLT) is conducting the reassessment on behalf of the State's Department of Local Government Finance and will be processing assessment appeals. Relevant evidence for challenging a Lake County assessment include:

1. Recent sales of comparable properties
2. Recent appraisals

3. Repair estimates
 4. Document reflecting market value of comparable properties
 5. Photos depicting the condition of building improvements
 6. "Any other pertinent representations of true tax value"
- Indiana property owners through out the state should be prepared to challenge their assessments. 2002 real estate tax assessments are based on a new system based on "value-in-use" or the value that a specific property has based on its current use. For the first time in decades, real estate assessments will be based on market data rather than exclusive reliance on a state generated cost manual.

Call our office for more information on the Indiana reassessments. Now is the time to prepare for what could be dramatically higher assessments.

FIRM NEWS

- Fisk Kart Katz and Regan, Ltd. is pleased to announce that **Natale F. Malizia** and **Michael Hilborn** have joined the firm.

Nat, Real Estate Tax Administrator, brings 24 years experience in real estate tax assessment, including 10 years at the Cook County Assessor's Office. His background in multi-family, commercial and industrial appeals along with his understanding of local assessment procedures makes Nat an invaluable asset to our clients.

Mike Hilborn, of Counsel, was formerly Senior Vice President and General Counsel of Urban Shopping Centers, Inc. He was responsible for administering the property taxes on Urban's portfolio of 24 regional malls and mixed use projects in excess of 22 million square feet having an aggregate value in excess of \$3.4 billion.

- Jim Regan recently spoke at the National Association of Homebuilders summit in Boston. He addressed Illinois' implementation of Section 42 Tax Credits and issues related to ad valorem tax policy for low income housing.
- Real Estate Investment Association (REIA) honored Richard A. Hanson, President, Mesa Development with the Martin S. Katz Real Estate Services Award at its annual holiday party and award presentation on Dec 10th.

AMERICAN PROPERTY TAX COUNSEL NEWS

- APTC member Stokes Bartholomew Evans & Petree wins major hotel case in Tennessee; see lead article.
- APTC's annual educational seminar took place on October 24 - 25 in Scottsdale, AZ. *Old Questions Beget New Answers to Overtaxation* featured discussions on the following topics:
 - Limiting the Definition of Real Estate
 - Reestablishing the Connection Between Demographics and Highest and Best Use
 - An Appraiser Looks at a Balance Sheet: Where are the intangibles?
 - Relation of Funding to Market Value
 - Building a CAP rate for the Real Estate: Identifying the Crucial Elements
 - Personal Property

If you'd like to receive a copy of the seminar materials, please email Linda Frattura at lfrattura@proptax.com.



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