

Real Estate Property Tax Appeals Update

Michael A. Paff, Esq.

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Budd Lerner, P.C.'s Real Estate Property Tax Appeals practice group represents property owners in reducing real estate taxes on commercial, industrial, multi-family, and residential real estate.

Michael A. Paff, Esq., is an experienced Property Tax Attorney dedicated to representing taxpayers on such diverse real property as hotels, industrial buildings, shopping centers, apartment buildings, condominium associations, farmland, research and development facilities and office buildings.

A Strategy Worth Considering

The economic recession has decreased property values in towns throughout New Jersey. As businesses and consumers seek cost-saving measures, property owners should be looking at appealing their possibly inflated property assessment as a way to decrease expenses.

Assessments and Calculations

A tax appeal challenges the assessed value of a property set by the municipal tax assessor which is the basis for the tax being challenged. The assessment is established as of October 1st of the previous year. This means that for 2011, the property assessment which taxes are based upon is the assessed value as of October 1, 2010. Notices of the assessment are sent to property owners on an annual basis, usually in late January / early February of 2011.

Unless the municipality was the subject of a recent revaluation, the assessed value may not necessarily represent the market value of the property. The assistance of an appraiser or a qualified tax appeal attorney can help determine the market value of a property in connection with a tax appeal.

In order to determine the market value to which the assessment translates, the "equalization ratio" or "average ratio" for the taxing district must be applied to the assessed value. For example:

If the assessment is \$850,000 and the municipal ratio is 72.50%, the equalized market value would be \$1,172,414 ($\$850,000 / .7250$).

A tax appeal may be warranted if the equalized market value of the property is more than the actual fair market value of the property. However, a taxpayer is entitled to a reduction in assessment only if the ratio of the assessment on the taxpayer's property to the fair market value of the property exceeds the upper limit of the ratio. The upper limit of the equalization ratio is the ratio plus 15% of the ratio.

For example, if the ratio for your municipality is 72.50%, the upper limit will be 83.38% ($.7250 + (.7250 \times .15)$). If the fair market value is found to be \$900,000 and the assessment is \$850,000, the assessment divided by the fair market value is 94.44% and you

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Tax appeals in New Jersey must be filed by April 1, 2011.

Tax appeals on properties subject to a revaluation or reassessment must be filed by May 1, 2011.

A Strategy Worth Considering (cont.)

would therefore be entitled to a reduction to the fair market value of \$900,000 or an assessment of \$652,500.

Deadlines

It is important to recognize that the deadline for filing a tax appeal is April 1st of each year (extended to May 1st, in most instances, if there has been a revaluation or reassessment in the municipality).

Venues

If the assessed value of the property is less than \$1 million, the appeal must be filed with the County Board of Taxation in the county where the property is located. If the assessed value is \$1 million or more, the appeal can be filed with either the County Board of Taxation or the Tax Court of New Jersey.

Refund (or Credit) and The Freeze Act

If the taxpayer is successful on appeal in reducing the assessment, the taxpayer will either obtain a refund of taxes paid based on that assessment or a credit in the appropriate amount to be applied against future taxes. After a judgment is entered, the assessment is "frozen" for the following two tax years, unless a complete revaluation or reassessment is undertaken by the municipality or unless there has been a change in the value of your property.

Conclusion

There are specific requirements that must be satisfied in pursuing a successful property tax appeal. The assistance of an experienced legal counsel and a skilled property appraiser provide a distinct advantage to property owners considering filing a tax appeal. ■

Michael A. Paff, Esq.

Michael A. Paff is a Shareholder of Budd Lerner, PC, and is a member of the firm's Real Estate Practice Group.

His practice consists of representing commercial taxpayers and municipalities in real property tax appeals on case management and settlement conferences, motions, and trials before the Tax Court of New

Jersey and County Boards of Taxation. He also represents corporate and individual clients in commercial and real estate litigation.

Mr. Paff is well-versed in the relevant law and understands appraisal and valuation techniques. He explores factors that affect valuation, studying the surrounding environment and evaluating the

condition of each property. He evaluates whether the client qualifies for exemptions, abatements or assessment reduction.

Mr. Paff is an experienced tax appeal litigator with hundreds of hours of courtroom time and has obtained millions of dollars in tax refunds for his clients. ■

BUDD LARNER, P.C.

150 John F. Kennedy Parkway
Short Hills, NJ 07078-2703

tele 973.379.4800

fax 973.379.7734

e-mail: mpaff@buddlerner.com

Visit our website
www.buddlerner.com

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