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Real Estate Tax Appeals

Developers and consumers are not the only ones concerned over the downturn in the economy. Local governments are facing a decline in state and federal funding. As a result, they are likely to concentrate on securing proven revenue streams, like property taxes, for funding to provide local services, such as public schooling, police and fire protection, and other governmental services. The local Property Appraiser is currently completing the valuation process and is required to issue a notice of property assessments (truth in millage (TRIM) notices), no later than the end of August. Given the potential negative financial impact on your real estate investment, you should anticipate receiving the TRIM notice, be well informed regarding the current proposed valuation of your property, and recognize the process for challenging the assessment.

The TRIM notice will reflect the local assessor's estimated value of the property as of January 1, 2008. Florida Statutes require the Property Appraiser to utilize the following criteria when performing their valuation: 1) present cash value; 2) the highest and best use of the property; 3) the location of the property; 4) the quantity or size of said property; 5) the cost of the property; 6) the condition of the property; 7) the income of the property; and 8) the net proceeds of the sale of the property. The Property Appraiser is obligated to consider, but not necessarily apply, each of the eight factors. With the ever changing real estate market, it is necessary that you review the TRIM notice to ensure that valuation accurately reflects these criteria.

If you feel the TRIM notice does not accurately depict the current value of the property, you can challenge the Property Appraiser's valuation. That challenge must be communicated to the Property Appraiser's office within thirty (30) days following the issuance of the TRIM notice. The Property Appraiser will often meet with you in an attempt to resolve your concerns. Whether at a meeting with the Property Appraiser or at a subsequent formal hearing, it will be necessary to produce facts that support your claim for a reduction. Legal counsel can help you with developing and presenting the most effective information to accomplish this goal. The Property Appraiser will present facts which they believe substantiate their appraisal. Legal counsel can often anticipate these arguments and assist you with presenting evidence negating the appraisal. If you are unable to resolve the discrepancy, you must file a petition with the Value Adjustment Board (VAB).

Real Estate Tax Appeals (Continued)

The VAB consists of three members of the governing body of the county (county commissioners), and two members of the school board. They are charged with resolving any alleged discrepancy regarding your property taxes. You are required to file the VAB petition within twenty-five (25) days of the date of the TRIM notice with the clerk of the VAB of the county where the property is located. It is best to file your petition as soon as you determine that you intend to challenge the valuation to ensure your right to present your case. A petition can be withdrawn if a resolution is reached with the Property Appraiser prior to a hearing. The VAB will provide you with an acknowledgment of receipt of the petition, and you must furnish the acknowledgement to the Property Appraiser. The petition should include the approximate time you will need to present your argument to the VAB.

In most counties, the VAB appoints Special Magistrates for the purpose of taking testimony or making recommendations to the board, which recommendations the board may act upon without further hearing. The VAB will not overturn a decision of the Special Magistrate, absent a gross misapplication of the law or a denial of due process. There are procedure and evidence requirements at every phase of the process. It is recommended that you have competent counsel to represent you in these proceedings to ensure your rights at every stage.

If you are dissatisfied with the VAB's ruling, you may appeal the case to Circuit Court within sixty (60) days from the date of final assessment, or within sixty (60) days following the VAB's decision. The Circuit Courts will have original jurisdiction as to all matters relating to property taxes. The venue is in the county where the property is located. Prior to bringing an action, a property owner must pay the collector not less than what the tax payer believes to be a good-faith amount owed under a correct valuation. The tax collector is required to issue a receipt of payment and that receipt must be filed with the complaint. The payment of the tax shall not be deemed an admission.

Failure to adequately review your TRIM notice can result in an unnecessary, and often substantial, expense. Consider consulting with competent legal counsel and determining facts supporting your assessment of the value of your property prior to receiving your TRIM notice. This will enable you to develop an effective strategy in battling the Property Appraiser's assessment and evidence.

While a successful challenge to proposed property assessment may initially reduce local government income, a realistic and market value assessment should, in both the short and long term, stimulate the local real estate market by creating an increase in the sales of single family homes and condominiums and the leasing of commercial properties, which currently have been adversely affected by high real estate taxes. Increased real estate activity will then improve the income stream to local government.