

Law Report



Cook County Assessment Ratios To Plummet But, don't expect tax bills to fall...

By Joanne P. Elliott

Recently, the Cook County Board adopted an ordinance slashing assessment percentages for all property in the county. This change will be effective beginning with the 2009 tax year (taxes payable in 2010).



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Assessment percentages are important because they are used to determine assessments, which, in turn, are used to compute property tax bills. The assessment is a percentage of the fair market value of property as determined by the Assessor. Reductions in assessment percentages may have an impact on assessments; however, do not expect across the board reductions in property tax bills.

Specific Changes
Under the prior law, there were several classes of property in Cook County

with assessment percentages ranging from 16% to 38%. Under the new law, the property classes remain; ultimately, however, there will be only two assessment percentages: 10% and 25%.

Commercial property, industrial property and property owned by not-for-profit entities will be assessed at 25% of market value. All other property classes (vacant land, homes, condos, co-ops, apartments, mixed-use and incentive classes) will be assessed at 10%. For apartment buildings, the phase-in will be gradual from 2009 through 2011.

Following are the assessment percentages under the prior and current law. As you will see, each property class will experience a substantial reduction in its assessment percentage.

(continued on inside)



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Property Class	ASSESSMENT PERCENTAGE		% Reduction
	Prior Law	New Law	
Vacant Land	22%	10%	-54.5%
Residential property	16%	10%	-37.5%
Apartments and mixed-use buildings	20%	16% - 2009	-20.0%
Not for profit property	30%	25%	-16.0%
Commercial property	38%	25%	-34.2%
Industrial property	36%	25%	-30.0%
All Incentive Classes	16% then phase out	10%, then phase out	-37.5%

Impact On Tax Bills

How will tax bills be affected by these reductions in assessment percentages?

The initial reaction is to assume that if assessment percentages fall, tax bills will likewise fall. But, while this change may lower taxes for some property owners, others will actually pay more.

Property taxation is a sum-zero game. Tax levies (the gross amount of money local government takes from property owners) are spread among all property owners according to their assessments. This process is called "tax extension". The result of tax extension is computation of tax rates that are applied to each parcel of property. Once tax rates are determined, tax bills can be computed by applying the applicable tax rate to the assessment of the individual property.

The recent reductions in assessment percentages may cause assessments to fall; however, this change will have no impact whatsoever on tax levies, which grow from year to year. If assessments fall, tax rates will rise an offsetting amount so that tax levies do not shrink. The bottom line is that across the board reductions in assessment percentages will not cause taxes to fall in the aggregate.

Winners And Losers?

While aggregate property taxes will not fall, this change may create winners who will pay less tax than otherwise and losers who will pay more. To look at it another way, while the tax pie will stay the same size, the new law could impact the size of each taxpayer's slice of the pie (i.e. the tax bill).

Under the new law, assessment ratios will not fall by the same proportion for each class of property. Some property classes will experience a larger percentage reduction in their assessment than others. This fact in and of itself could create winners and losers. Those property classes whose assessments fall the most could end up paying less and those whose assessments remain flat or fall the least could end up paying more.

Who might the winners be?

* Those whose assessments fall by the greatest amounts. Example: owners of vacant land and apartments (in 2011)

And, the losers?

* Those whose assessments don't fall or fall by the smallest percentage amounts. Example: apartments (in 2009) and owners of commercial, industrial and non-for-profit properties.

Offsetting Increases In Market Value Estimates

One major question remains unanswered: Will the Assessor increase his opinion of what individual properties are worth when he implements the reductions in assessment percentages directed by the Cook County Board?

In past years, the Cook County Board implemented minor reductions in assessment percentages for limited classes of property. In some of these situations, the Assessor increased his opinion of properties' value at the same time he applied the reduced assessment percentages. The end result was that assessments of those properties remained constant or increased. In other situations, the Assessor left market values alone and, in those cases, individual assessments actually fell.

So, what will the Assessor do now? Only time will tell; however, we suspect the Assessor will make off-setting adjustments to the market value of many classes of properties such as single-family homes and condominiums which are known to be substantially under-valued on the Assessor's books. In those cases, the impact of this change in the law will either be nominal or it may actually cause those taxpayers to pay more. In other cases, such as recently purchased property, where the Assessor's estimate of market value is accurate, those taxpayers could actually see their taxes fall.

What is abundantly clear is that taxpayers will need to review their new assessments thoroughly to determine whether they are accurate and whether this change in the law creates a need or opportunity to contest the assessment.



WINNER!

CONTESTING ASSESSMENTS IN A DOWN MARKET

Day after day, news reports indicate that home sales are down, home prices are falling, retail businesses are closing, and businesses are laying off people in record numbers. If property values are falling, shouldn't assessments fall as well? And, if they aren't, what can and should the taxpayer do?

Homes and Condos

We regularly review MLS data and appraisals for homes and condos in the Chicagoland area. Our review clearly indicates that some markets are experiencing stagnant or falling home prices and high levels of short sales and foreclosures (called "duress sales"). Other areas, however, are experiencing very little of this negative activity.

As we focus in on specific residential developments and condominium buildings, we see that some may be experiencing high levels of duress sales while other nearby properties are not.

The assessing officials read the same news reports as you and I and have access to the same MLS data and appraisals. From our discussions with them,

it would appear they are reaching the conclusion that duress sales are occurring, but the experience is spotty.

In general, the assessing officials refuse or are reluctant to consider duress sales as evidence of market value because Illinois law prohibits them from doing so. Illinois law defines market value as: "The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller".

In addition, Illinois law requires Assessors to review sales over the prior three years when determining the current assessment. Most Assessors do not adjust older sales for inflation. In a rising market, this practice will benefit the taxpayer. However, in a falling market, current/depressed sales prices will have a nominal impact on current assessments.

Perhaps this explains why homeowners are not seeing their assessments fall by as much as they might expect given current news reports.

What can or should the homeowner do in today's environment?

At some point, if the number of duress sales in a particular neighborhood, development or condominium building is great enough, duress sales prices may become the market. In today's market, lawyers need to review prior sales and differentiate them from current sales and listings in order to determine what the current market value is. Then, we need to make the appropriate argument to the assessing officials¹.

In addition, it may be necessary to obtain an appraisal so that we have an opinion of market value from an unbiased third party that considers all relevant factors, including the impact duress sales are having on the market. The opinion of an unbiased third party expert will carry more weight than the opinion of the attorney advocate.

Commercial & Industrial Property

A financial tsunami wave has hit our economy. It began in the residential area with sub-prime loans and subsequently infected most other areas of the economy. It is evident that commercial real estate is now being substantially affected as the economy grinds through the recession. Commercial vacancies are rising, rents are falling, loans are hard to come by and commercial duress sales are beginning to occur.

With regard to owner-occupied property, appraisers need to be consulted. It is important to communicate with the appraiser to ensure he has properly considered current sales activity and made necessary adjustments to older sales to reflect the stronger prior market. Since current sales activity is scarce, it may be difficult for the appraiser to find an abundance of current sale comparables to demonstrate where the current market is. Older sales will need to be evaluated, but appropriately adjusted.

In normal times, property assessments are reviewed thoroughly in the triennial or quadrennial assessment year and generally only contested in the in-between years when vacancy exists. In today's market, during non reassessment years, a more thorough review may be appropriate for those properties whose value has been negatively impacted by current events.



¹It is not economically feasible to do this for every home. This is most often done for highly valued homes, housing developments and condominium associations.

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Chicago To Be Reassessed in 2009 A Summary of the Process And Recent Developments

All property in the City of Chicago is scheduled to be reassessed during 2009 as part of the Assessor's ongoing triennial (3 year) reassessment process. For further information regarding townships to be reassessed in 2009, please visit our website at www.elliottlaw.com under the E-News section.

We expect the assessment season to begin in late Spring and continue through November.

Taxpayers will have only 30 days from the date their township assessment notices are mailed to file complaints with the Assessor. Time frames are tight and an effective appeal requires thoughtful preparation. Therefore, we like to begin our work before assessment notices are mailed.

It is important to note that the Assessor will not grant vacancy relief unless evidence of income and expense and vacancy is submitted at the time the complaint is filed and the taxpayer requests that the Assessor conduct a field inspection to verify the existence of the vacancy.

