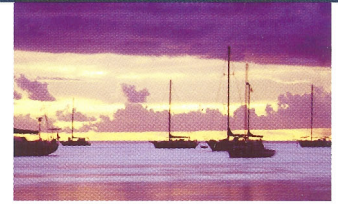


Law Report



EVOLVE OR FADE AWAY

By Michael J. Elliott

Some people fight change because they cannot or do not want to adjust to it. Others accept its inevitability and take it in stride. While we at ELLIOTT & ASSOCIATES may not like certain changes in the property assessment field, when they occur we consider them a challenge and deal with them head on.

Over the last few years, several assessing officials have changed the way they do business making it tougher to get assessment reductions. Under former methods of operation the forms were simpler and the assessing officials more accommodating. If we followed the policies and procedures, including those that were unwritten but understood, and persuasively advanced one of several legal arguments, we would generally obtain a favorable assessment reduction.

Recently, the assessing officials have adopted more detailed forms and more complicated appeal procedures. If practitioners

do not adhere to these new ways of doing business, they will not obtain the assessment modifications they seek.

For instance, in the past, vacancy relief was readily granted when the assessing officials were presented with a simple affidavit attesting to the vacancy situation. Under current procedures, the Cook County Assessor will not grant reductions based on vacancy unless, at the time the complaint is filed, he is notified of the vacancy, is presented with a completed vacancy affidavit (new form) and the attorney requests a field check to verify the vacancy exists. This is a different practice from other assessment cases where evidence can be filed during a thirty-day grace period after the complaint is due, or on a post-decision re-review request. As a result, we have altered our internal procedures to ask clients to furnish us with vacancy data well in advance of the filing deadline so we can, in turn,

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Michael J. Elliott

"Today, getting favorable assessment decisions requires more thorough evidence and thoughtful analysis. There are no easy appeals any more. We have to work more diligently and cleverly but the extra exertion pays dividends in the form of positive results for our clients as our job performance has improved."



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**WE'VE
GONE
DIGITAL**

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At www.elliottlaw.com, you will find information about our firm, directions to our office, a library of documents, articles and forms and answers to frequently asked questions. In addition, we have links to other websites where you can review your assessment, find out if your taxes have been paid and better inform yourself about current assessment and property tax issues. We're just a few clicks of your mouse away.



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ASSESSMENT SAVINGS FOR APARTMENT BUILDING OWNERS

Under Cook County's Classification Ordinance, all properties are categorized according to use and assessed for tax purposes at a percentage of their market values as determined by the Assessor. Before 2002, industrial property was assessed at 36% of market value, commercial property at 38% and apartment buildings at 33%. While the rates for industrial and commercial remained unchanged, as of 2002 the Cook County Board lowered the assessment percentage for apartments to 26% where it remained until this year. A further, gradual reduction over 3 years for apartment buildings was set in motion in 2006 so that the assessment percentage will be 24% this year, 22% in 2007 and 20% in 2008 with no additional abatement planned.

Apartment owners obviously will be the beneficiaries of a lower assessment, which the Assessor's Office has calculated will result in a property tax shift to the other classes of property of approximately 2%. Taxing bodies are entitled to the same revenue flow regardless of how it is proportioned among payers therefore all other taxpayers (owners of residential, commercial and industrial buildings) can expect their real estate taxes to increase (by 2%) as a result of this change to offset the lesser amount to be paid by apartment owners.

This is one more reason why non-apartment property owners should want to aggressively contest their assessments.



CHICAGO TO BE REASSESSED: A SUMMARY OF THE PROCESS AND RECENT DEVELOPMENTS

All property in the City of Chicago is scheduled to be reassessed during 2006 as part of the Assessor's ongoing triennial (3 year) reassessment process.

In prior years, the Assessor mailed the first re-assessment notices in early May and the last around Thanksgiving. This year, however, the Assessor has gotten an early start in an effort to spread the assessment work out more evenly during the assessment season.

There are seven townships in Chicago. The first notices (for Rogers Park) will be mailed on March 31, 2006. The last notices (for North Chicago) will be mailed November 6, 2006. The anticipating filing deadlines for each township in Cook County can be found on the Assessor's web site at

www.cookcountyassessor.com.

Taxpayers will now have only 30 days from the date their township assessment notices are mailed to file complaints with the Assessor. This deadline has been **shortened from 45 days**. 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 vacancy is filed at the time the complaint is filed, the Assessor is informed of the vacancy on the complaint form and the taxpayer requests a field inspection on the complaint form to verify the existence of the vacancy.

Decisions of the Assessor may be appealed to the Board of Review. The Board will announce a 30-day filing window for each township shortly after the Assessor completes its work for that township and certifies the assessment roll. Taxpayers may file complaints to the Board individually or through an attorney. Non-lawyers are prohibited from representing taxpayers before the Board.

The Board operates under increasingly tighter time frames each year. Currently, Board hearings are scheduled about

10 days after the filing deadline. The taxpayer or its attorney must submit a brief (written argument) and supporting documentation at the hearing and will have the opportunity to argue the case directly to the Commissioners or one of their deputies. The Board will render a written decision in about 30 to 60 days from the hearing date.

If the taxpayer wants to appeal the Board's decision, they will have a choice of **appeal routes: Property Tax Appeal Board (PTAB) or Circuit Court**. The choice of forum (PTAB or Court) is critical; however, the factors to be considered are beyond the scope of this article. Each of these forums requires that an appeal first be filed with the Board. Each forum also has its own filing deadlines. Appeals to PTAB must be made within 30 days following the post-mark date of the Board's decision. Appeals to Court must be made within 75 days following the due date of the second installment tax bill.

Each case must be monitored in subsequent assessment years.

One-year only reductions (granted as a result of vacancy or abnormally low rental income) will certainly require consideration and possibly an appeal the following assessment year. Material, detrimental reductions in property operations (fire, substantial vacancy or abnormal reductions in operating income, for example) may warrant additional assessment reductions. Lastly, appeals must be filed to the Board in subsequent years as a prerequisite to filing an independent appeal to PTAB or Court for that year. And, since relief in the first year of an assessment period is likely to be granted for subsequent years of that same period, it is crucial to file necessary Board, PTAB and/or Court complaints in subsequent years.



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submit proper evidence with the complaint. The Cook County Board of Review does not conduct field inspections before it grants a vacancy reduction, but it must be convinced that vacancy does in fact exist and did not result from mismanagement. The Board is disinclined to compensate for poor managerial performance. The Board requires proof of vacancy, in the form of affidavits from the taxpayer and/or credible third parties, as well evidence of attempts to cure, such as a listing agreement with a Realtor, photographs demonstrating vacancy, advertisements, etc. Furthermore, the Board will not grant a vacancy reduction for a newly acquired building—on the assumption that the purchase price reflects the existence of vacancy. In these cases, it is imperative that we file a well-documented, timely appeal with the Assessor who is more likely to grant substantial vacancy relief, rather than to the Board who will not be inclined to reduce the assessed market below the purchase price.

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In many cases, we can no longer obtain an assessment reduction on the basis of one legal argument. Our work has become much like that of an appraiser who has to work through and reconcile the three approaches to value—cost, income and sales comparison—before arriving at a final estimate of market value. We have to make a similar effort, especially when a client has just acquired a property and the sales price well exceeds market value on the Assessor's books. In those cases, we might present an income and expense analysis factoring in the impact of the increased taxes brought about as a result of the high sales price or present a uniformity analysis, which demonstrates evidence of comparable buildings that are assessed lower than our client's.

Today, getting favorable assessment decisions requires more thorough evidence and thoughtful analysis. There are no easy appeals any more. We have to work more diligently and cleverly but the extra exertion pays dividends in the form of positive results for our clients as our job performance has improved.



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