

Law Report



ASSESSMENT WORLD TURNED UPSIDE DOWN

We are now well into the great recession – hopefully, moving toward the tail end of it. The upheaval in the global economic markets has turned the real estate and assessment worlds upside down. For the time being, assessment practices and procedures have been radically modified and conventional thinking has been set aside.

In most real estate markets, property values have fallen. In some segments, they have plummeted. During the 2009 assessment season, however, assessment changes were typically modest with slight increases or slight decreases being the norm. It appears that assessments have fallen far less than real estate values have.

In Cook County, the assessment rules and practices changed radically this year. As you will see below, this will have a substantial impact on assessments, appeals and property taxes.

Here are some of the specific things we are seeing in this unique and confusing environment:

- **Residential property values have fallen substantially.** News reports indicate that residential property values peaked in 2007 and subsequently fell by 20% to 30% across many areas in northern Illinois. Evidence of declining residential property values did not become evident until 2008. The decline continued and became more prominent in 2009. Decreases in market values have not been uniform throughout the Chicago area with some areas and some property types being hit harder than others.
- **The Cook County Assessor reduced residential assessments modestly in most areas in 2009.** Properties in Chicago were re-assessed in 2009. Notwithstanding sharp declines in property values, residential assessments in most Chicago townships were only reduced between 1% to 12% and two townships saw increases of 4% to 6%. The Cook County suburbs were not scheduled to be re-assessed in 2009; however, the Assessor reduced residential assessments in the suburbs modestly as well. According to the Assessor's office, this was done so that "...residential properties not being re-assessed this year [would] reflect a market adjustment reflecting the real estate downturn." This was an un-precedented move.

(continued on next page)



Michael Elliott

"All in all this has been a hectic and confusing year. But, there is a silver lining in this cloud: taxpayers who diligently review their assessments and aggressively contest them should come out on top."



ELLIOTT & ASSOCIATES
ATTORNEYS at law

1430 Lee Street
Des Plaines, Illinois 60018
Phone 847-298-8300
Fax 847-298-8388



- **Commercial property values appear to be declining, but data is limited.** Rents are falling while vacancies and cap rates are rising. These factors strongly suggest an intrinsic decline in property values. However, there has been relatively little sales activity in the commercial markets so there is a shortage of evidence to clearly indicate what market values are. The shortage of sales activity appears to result from the credit crisis, the wide spread between the ask (the amount sellers want for their properties) and the bid (the amount buyers are willing to pay), and the fact that many property owners are underwater with little motivation to sell at a price less than their loan balances.

Furthermore, lenders are slow to foreclose – lest they have to reflect losses on their books and, as a result, raise additional capital to remain solvent. So, while commercial property values have probably fallen, empirical proof has been difficult to find.

- **Commercial property assessments were all over the board.** In the 2009 Chicago re-assessment, commercial property assessments were all over the board. Some properties saw their assessments remain relatively flat, others saw increases in the 15% to 20% range, and others saw huge assessment increases above 50%. It was difficult for us to discern a pattern among our client properties. In suburban Cook County, assessments of commercial property generally remained flat in 2009 despite the fact that assessment percentages were reduced.

- **Assessments did not fall when assessment percentages were reduced.** The Cook County Board reduced assessment percentages for all property types in the county effective for the 2009 tax year. For residential properties, assessment percentages were reduced from 16% to 10%. For commercial and industrial properties, they were reduced from 38% and 36%, respectively, to 25%.

Logic dictates that when assessment percentages fall, assessments should likewise fall - unless property values are concurrently increased. The Assessor did not reduce assessments in 2009 to reflect the decreased assessment percentages. For residential properties, this was appropriate because most governmental officials agreed that residential properties were already assessed at about 10% of market value. The change in the law merely codified the existing assessment practices. For commercial properties, however, the Assessor's failure to reduce assessments resulted in substantial increases in his underlying estimates of market value. As an example, for those commercial properties whose assessment remained flat in 2009, the Assessor hiked his estimates of market value by 52% as indicated in the following example:

Example. In 2008, a commercial property worth \$100,000 would have been assessed at \$38,000 (\$100,000 x 38%). If the 2009 assessment remained at

\$38,000 and the assessment percentage declined to 25%, the Assessor's estimate of market value increased by 52% to \$152,000 (\$152,000 x 25% = \$38,000).

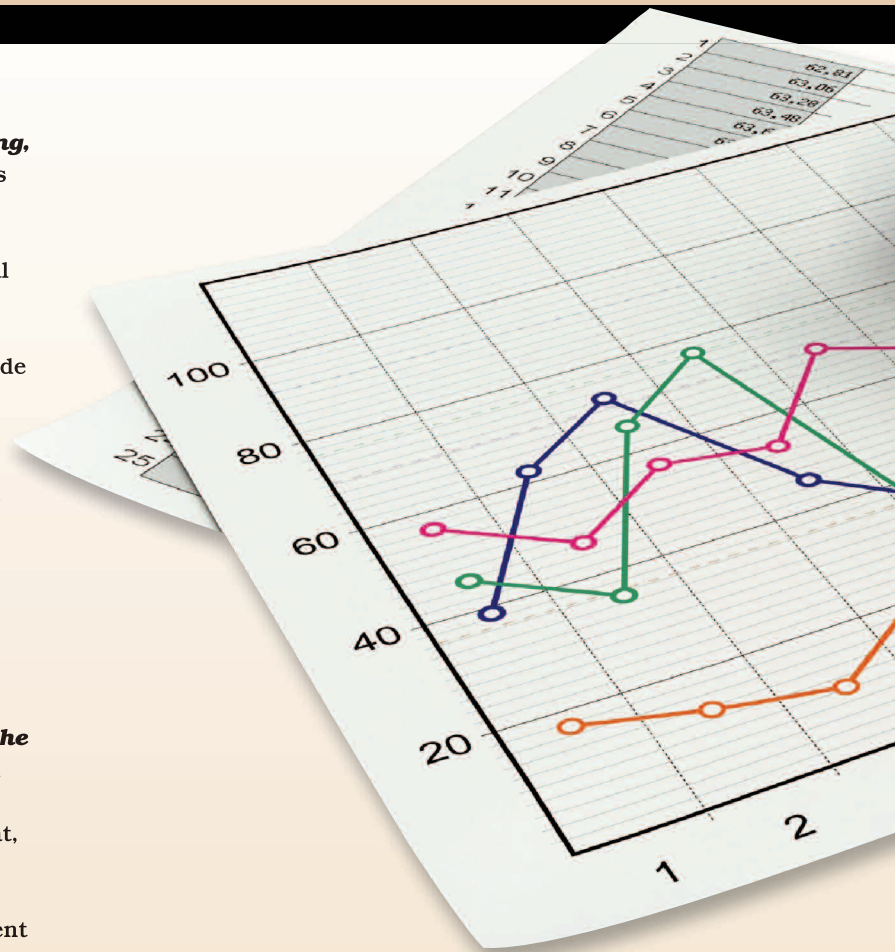
This failure to reduce commercial assessments resulted in an enormous number of commercial tax appeals in 2009.

- **Commercial property owners will likely receive large assessment reductions in 2009 from appeals.**

Commercial property owners are filing record numbers of tax appeals in 2009 arguing they should be assessed at 25% of market value. They are submitting evidence of market value in the form of purchase price data and appraisals. It is likely many of these appeals will be successful causing these properties to be assessed at 25% of market value and resulting in substantial assessment reductions.

- **All Cook County was re-assessed in 2009.**

Every property owner in Cook County received an assessment notice in 2009 regardless of whether his or her property was scheduled to be triennially re-assessed in 2009. Property owners in Chicago were scheduled to be re-assessed in 2009 and received assessment notices as usual. Residential property owners in the suburbs received assessment notices, generally reflecting decreases, in order that they would receive "market adjustments to reflect the real estate downturn." Commercial property owners in suburban areas received assessment notices that typically reflected no change in assessment; however, these notices were





misleading in that they failed to disclose the increase in the Assessor's underlying estimate of market value.

- **Tax rates are likely to rise.** The Cook County tax base is likely to shrink substantially in 2009 because of the reductions in residential assessments directed by the Assessor and the anticipated reductions in commercial assessments resulting from tax appeals. Tax rates will necessarily rise as a result as tax levies (the amount government "takes"

from taxpayers) are spread among a smaller tax base. Commercial property owners will likely become winners in this process – and see their tax bills fall – because commercial assessments are likely to shrink more than tax rates are likely to rise. Because property taxation is a zero-sum game, however, residential property owners will likely become losers – and see their tax bills rise – as tax rates rise by more than assessments fall.

All in all this has been a hectic and confusing year. But, there is a silver lining in this cloud. Taxpayers who diligently review their assessments and aggressively contest them should come out on top.

NORTH SUBURBS TO BE REASSESSED IN 2010

What will it look like?

By Joanne P. Elliott

All property in the northern suburbs of Chicago (north of North Avenue) is scheduled to be reassessed during 2010 as part of the Assessor's ongoing triennial (3 year) re-assessment process.

The northern suburbs were last re-assessed in 2007. Under normal circumstances, they would not be re-assessed again until 2010. However, during the 2009 tax year, the Assessor mailed assessment notices to all property owners in Cook County, including those in the north suburbs, effectively re-assessing them in 2009. So, given the Assessor's activities in 2009, what will the 2010 re-assessment look like?

- The north suburbs will be re-assessed in 2010 and re-assessment notices will be mailed to each property owner.



- According to the Assessor's office, residential assessments were reduced in 2009 so that taxpayers would "not have to wait until their next reassessment for the impact [of the real estate downturn] to be reflected." This suggests that 2009 assessments already reflect deflation in the real estate markets as perceived by the Assessor. But, given that the Assessor only reduced 2009 assessments by 5% to 10% and that property values have typically fallen from 20% to 30%, taxpayers should review and contest their assessments in 2010.
- The Assessor generally left commercial assessments unchanged in 2009 despite decreasing commercial property values and decreases in assessment ratios directed by the Cook County Board (from 38% to 25%).

1430 Lee Street, Des Plaines, IL 60018



4



***“We have achieved
success for our clients
— with resulting
tax savings”***

It is difficult to predict what the Assessor will do to commercial assessments in 2010. But, recent experience indicates that it is unlikely that assessments will reflect the true declines in property values. Furthermore, the Assessor's failure to reduce assessments when assessment ratios were decreased resulted in substantial increases in his underlying estimates of property values. Both of these factors strongly suggest 2010 assessments should be reviewed and contested.

We expect the 2010 assessment season to begin in late Spring and continue into early 2011. Taxpayers will have 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 is willing to grant substantial vacancy relief



when the facts warrant. In order to obtain this relief, the Assessor must be provided with income and expense data and be advised of the vacancy at the time the complaint is filed. A field inspection will be conducted to verify that vacancy exists.