

Law Report



GOOD TO GREAT

by Michael J. Elliott

In the book *Good To Great*, author Jim Collins analyzed 11 companies whose stock outperformed the market by over 6 times during a 15-year period. He tried to determine what those “great” companies did to produce extraordinary results.

It’s fair to ask the same question about tax appeals because property taxes are such a major expense. Clients should not accept good results if great results are possible. Clients should ask their lawyers what they are doing to provide great results.

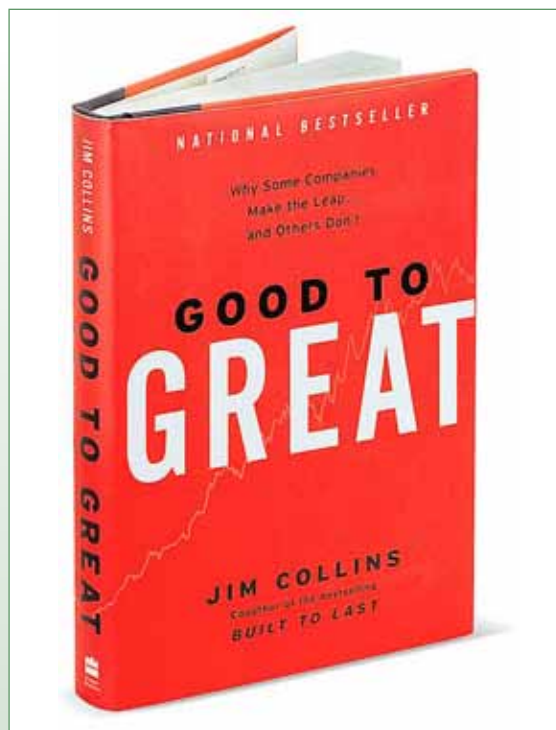
Years ago, the tax appeal practice was fairly simple. The lawyer hired an appraiser and filed an appeal. Results were fairly predictable. Back then, people often believed that who their lawyer knew was more important than what he or she knew or did.

Today, the world is different. Transparency is a big issue. The assessing officials want to know what property is really worth. They want to understand its capacity to produce income. They want to see good sales comparables. They want proof of vacancy and an explanation of what is being done to cure it. The lawyer needs to comply with a never-ending stream of deadlines and ever-changing rules. Lawyers need to be fluent in valuation issues, submit solid valuation evidence, understand how each of many assessing officials think, be highly persuasive and adaptable.

Here are some of the key issues we see and how we deal with them in order to provide great results for our clients.

Appraisals

The primary question in tax appeal cases is what property is worth. An appraisal is usually the best evidence of market value and, for large properties, appraisals are nearly always obtained.



But, for smaller properties, good assessment reductions can be obtained with a lawyer-generated financial analysis in lieu of an appraisal.

When appraisals are not feasible, our analysts (including a senior analyst with a MBA and a licensed appraiser) perform valuation analyses using subject and market income and expenses and capitalization rate data. We subscribe to appraisal data services such as CoStar, LoopNet and the Multiple Listing Service of Northern Illinois. Our income analysis is then supported with sales comparables to provide strong evidence of market value. Our lawyers are then free to be your advocate, arguing your case to the assessing officials and using appraisals or our financial analyses as support.

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When appraisals are obtained, it is important to select the appraiser who is best equipped to value the property and successfully defend the appraisal. It is also important to review appraisals before submitting them to the assessing officials because appraisers can and do make mistakes. Our firm attempts to find those appraisers who are most experienced in a particular property type or geographic area. Our in-house analysts review appraisals, critique them and, when time permits, ask the appraisers to make necessary corrections.

Docket Management



The assessment practice involves a never-ending series of deadlines. We face weekly deadlines for filing tax appeal complaints and evidence with the Cook County Assessor, numerous County Boards of Review, the Property Tax Appeal Board and the Circuit Court. Each agency has multiple filing deadlines that apply to a given property.

Taxpayers also have the opportunity to review and respond to evidence filed by their opponents (the County or intervening taxing bodies) and to file petitions to the assessing officials to reconsider their tax appeal decisions before those decisions become final. These are important opportunities to gain significant advantage, but the taxpayer may have as little as 3 to 5 days to take necessary action. This is precious little time.

It is easy for a moderately busy law firm to become completely overwhelmed by this never-ending stream of deadlines. In order to effectively manage this problem, our firm has developed a state-of-the-art computer system, developed highly defined management processes, and engaged in ongoing staff training, all with the goal of allowing us to manage these deadlines and take appropriate action on a timely basis. We also employ a full-time docket manager whose job it is to monitor deadlines on a daily basis, provide reports to our lawyers and staff and assist us in ensuring deadlines are met.

The Environment

In the Chicago metropolitan area, there are over 95 governmental agencies involved in tax appeal cases, including local Assessors, County Boards of Review, the Property Tax Appeal Board and County Courts. Each agency has its own personnel, points of view, written and unwritten policies. The key to obtaining great results is to understand the environment, meet the decision makers, earn their respect, know their written rules and informal policies and present the case in such a way that they will decide in your favor. We have over 22 years experience in the tax appeal field and have made it a priority to know our environment well.

Settle Now vs Trial Later

Taxpayers prefer to obtain maximum assessment relief from the Assessor and Board of Review because that relief occurs before the tax bill issues. When the Assessor or Board reduce assessments, the next tax bill will be smaller than it would have been had no appeal been filed.

After the tax bill has been paid, appeals can be taken to the Property Tax Appeal Board (PTAB) or the Circuit Court of the County. If these cases are won, tax refunds will be issued; however, they can take 1 to 3 years to resolve.

Assessors and Boards of Review often offer the taxpayer a deal: accept a smaller assessment reduction today and waive the right to appeal to PTAB and Court to obtain further relief for this tax year. To provide great results, lawyers need to develop effective settlement and trial strategies and advise their clients accordingly.

We often advise our clients to accept reasonable settlement offers for the current tax year and waive further appeals for that year. This will reduce the current and future tax bills and provide immediate, predictable relief. Then, if cost-effective, an appeal can be taken to PTAB or Court the next tax year. PTAB and Court cases may take 1 to 3 years to resolve, but in the meantime, the tax bills will have been reduced by virtue of the settlement.

In those cases, however, where the Assessor or Board are unwilling to make a reasonable settlement, we usually recommend that a PTAB or Court appeal be pursued and the case tried. PTAB or Court cases can take time to resolve, but if the evidence is strong, the taxpayer will be rewarded for his/her patience with a large tax refund and reduced future tax bills. Sometimes this is the only way to control an un-cooperative assessing official.

The Importance Of Hiring A Lawyer

Great results are obtained when great lawyers are involved. Non-lawyer tax consultants are permitted to represent taxpayers before local assessors, but are prohibited from representing them before most Boards of Review, the Property Tax Appeal Board and Court. While non-lawyer tax consultants may be versed in valuation issues, they are not trained in legal issues. And, it is the combination of these skills that provides maximum advantage in tax appeal cases. Furthermore, since non-lawyers are prohibited from representing taxpayers in many tax appeal forums, they often do not file appeals to those forums (leaving money on the table) or they hire lawyers to front for them. Either way, this is hardly a prescription for great results. Great results are obtained by hiring a skilled lawyer of your choosing who thoroughly understands valuation issues, can effectively use the rules and case law to his advantage, aggressively represents your interests and is persuasive.

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2013 ASSESSMENT SEASON HAS STARTED

The 2013 assessment season has begun. This year, all property in the northwest suburbs will be re-assessed.

There are 13 townships in the northwest suburbs (Barrington, Palatine, Wheeling, Northfield, New Trier, Hanover, Schaumburg, Elk Grove, Main, Nilus, Evanston, Leyden and Norwood Park townships). Property owners in each of these townships will receive a notice of reassessment in the mail during 2013. This notice will set forth the proposed 2013 assessment (referred to as the re-assessment). Taxpayers will have thirty days to file an assessment appeal with the Assessor's office to seek a reduction in the proposed re-assessment.

Property owners in the other townships in Cook County will also have an opportunity to contest their assessments in 2013. If the Assessor increases the assessment of a property in a non-reassessment township, the taxpayer will receive a mailed notice of reassessment and be given thirty days to file an appeal. Taxpayers are generally re-assessed in a non-assessment year if they received a one-year assessment reduction in the prior year. One-year reductions are often granted if the property experienced above-normal vacancy or below-normal operating income. All taxpayers will have the right to appeal during the 30-day filing period for their township regardless of whether their assessment has been increased or not.

The Assessor has released a schedule of anticipated filing deadlines for each of the 38 townships in Cook County. This schedule can be found on the Assessor's web-site (www.cookcountyassessor.com – click on “Appeals and Appeals and Closing Deadlines”. The Assessor plans to release assessments and accept appeals for three to four townships each month). The first filing deadlines will occur at the end of February. The last filing deadlines are scheduled to occur in early November.

It will take the Assessor's office about 60 days to resolve all appeals in a given township.

After the Assessor completes his work in a given township, he will certify his books. The Cook County Board of Review will then establish its own 30-day appeal deadline for the township. The taxpayer will then have a second opportunity to appeal its assessment with the Board of Review. The Board will decide its cases within about 60 days following its filing deadline. If the Assessor and Board maintain this schedule, the Board should complete all of its work by spring, 2014 and tax bills should be mailed in late summer and payable in early fall. In the meantime, 1st installment 2013 tax bills will be due March 1st and are simply 55% of the 2012 bill. Any change in the tax bill (resulting from a change in the assessment, equalizer, tax rates or exemptions) will be reflected in the 2nd installment bill payable late summer/early fall 2014.



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THE BACK ROOM

Never underestimate the importance of a great back room. Great results are only possible when a great team is in place. No one person can do all that needs to be done.

Our firm employs 25 people, including lawyers, analysts, docket manager, paralegals, production staff, computer programmers, bookkeepers, and a marketing director. Each brings different skills, experience and points of view. Collectively, they contribute the resources necessary to manage the deadlines and provide extraordinary results.

