



Real Property Tax Appeals UPDATE

Real Property Tax Appeals Must Be Filed By April 1, 2014*

In the current real estate climate of falling values and rising foreclosures, the annual review of real property assessments is an essential component of asset management. Whether you are the owner, tenant, or mortgagee of real property, we urge you to let us review your 2014 assessments to help you identify potential opportunities to reduce property tax liability.

All real property in the State of New Jersey is valued each year as of October 1 of the pre-tax year for purposes of real property taxation. The value, known as the "assessment," is determined by the municipal tax assessor. The right of a property owner to appeal the assessment of real property is established by the State Constitution and statutory law. Real Property Tax Appeals are challenges to excessive real estate tax assessments and must be filed by April 1, 2014.

The right to appeal the assessment of real property extends beyond the property owner. In *Village Supermarkets, Inc. v. West Orange Tp.*, 106 N.J. 628 (1987), the Supreme Court of New Jersey determined that a significant tenant, who pays taxes under a lease, has standing to proceed with an appeal in its own name to challenge the assessment of real property.

During the last real estate recession, John M. Pellecchia, a partner at Riker Danzig and head of its Real Property Tax Law practice group, persuaded the Tax Court of New Jersey to extend the rationale of *Village Supermarkets* to establish the right of a mortgagee to proceed with a tax appeal for a property in default under a mortgage in *Chemical Bank of New Jersey, N.A. v. City of Absecon*, 13 N.J. Tax 1 (N.J. Tax 1992). This case provides mortgagees with an important tool to limit losses on distressed properties and maintain assets during the pendency of foreclosure and/or sale proceedings.

*Recent statutory changes have created an exception to the April 1 filing deadline for tax year 2014 for properties located in Monmouth County. The new legislation established a January 15 filing deadline for properties located in

Monmouth County.

Annual Review Procedure

Many property owners and lenders are finding themselves in possession of unproductive and/or deflated real estate assets. One way to offset or reduce the burden of these conditions is to annually review the real property tax assessment to determine whether the assessment should be reduced to reflect the market.

Riker Danzig has a sophisticated statewide practice in property tax law and is ready to undertake a review of the assessment of your commercial properties, in all counties except Monmouth, to determine whether appeals are warranted. To do this, we work closely with appraisal consultants, who will analyze the assessments (at no cost to our clients) to determine if the properties are properly valued for purposes of taxation.

To undertake a preliminary review of a potential tax appeal, we will need a copy of the 2014 Notice of Assessment (the post-card mailed to the property owner in February of each year indicating the assessment for that year) as soon as possible.

A brief summary of the procedure for the assessment of real property in New Jersey and the procedure for the appeal of such assessment is set forth below.

Assessment

All real property in the State of New Jersey is valued each year as of October 1 of the pre-tax year. In practice, most assessors do not reassess each property annually. As a consequence, assessments often equal or approximate 100% of "true value" only in the years for which a reassessment or revaluation has occurred.

Each year, the Director of the Division of Taxation determines the ratio of assessed value to "true value" on an average basis for each municipality by utilizing sales data of preceding years. These ratios are known as "average ratios."

True value represents the fair market value of the property or the price for which the real property would sell in an arm's length transaction between a willing buyer and a willing seller. To determine the assessor's contention of true value, you must divide the assessment by the average ratio. Grounds for a tax appeal exist when the assessor's contention of true value exceeds the actual true value by more than 15 percent.

Reassessment/Revaluation

A reassessment occurs when a municipality reassesses all properties within a certain class (e.g., all business properties within the municipality). A revaluation occurs when a municipality reassesses all properties within the municipality. In New Jersey last year, several municipalities reassessed or revalued properties within their boundaries.

The municipalities listed below are scheduled to implement reassessments or revaluations in 2014. The reassessment or revaluation of property by local taxing districts may increase the possibility of properties being assessed incorrectly, and assessments that arise from a reassessment or revaluation should be carefully analyzed to determine whether such assessments exceed the true value of the subject property.

Appeal Procedure and Deadline

Tax assessors are required to notify each taxpayer of the current assessment and preceding year's taxes by mail prior to February 1.

Taxpayers may appeal when the assessment of real property exceeds true value as previously described. Taxpayers also may challenge denials of tax exemptions or tax abatements, and added or omitted assessments, which assessors may impose in response to new construction or the failure to include property in previously made assessments.

In order to bring an appeal, a petition must be filed with the County Board of Taxation, or a Complaint must be filed with the Tax Court. A business partnership or corporation that seeks to challenge a tax assessment must be represented by an attorney at law before the County Board of Taxation and Tax Court.

The deadline to appeal the annual assessment of real property for 2014 is April 1, 2014, except in Monmouth County. The deadline to appeal the assessment of real property in taxing districts where a municipal-wide

reassessment or municipal-wide revaluation has been implemented for 2014 is May 1, 2014. Nevertheless, we urge you to review all Notices of Assessment as soon as possible so that you may evaluate whether grounds for appeal exist and, if so, meet the applicable filing deadline.

If you believe that a commercial property in which you have an ownership, leasehold or mortgage interest may be over-assessed, and you would like to consider appealing the assessment, please contact our Real Property Tax attorneys.

Attorney:

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