

PTA

PROPERTY TAX UPDATE

Property Tax Assistance Co., Inc. ♦ 16600 Woodruff Ave., Bellflower, CA 90706 ♦ 562-920-1864 ♦ www.property-taxes.com

SUMMER

2008

FALLOUT FROM AUERBACH V. ASSESSMENT APPEALS BOARD

David L. Gangloff Jr. Esq President

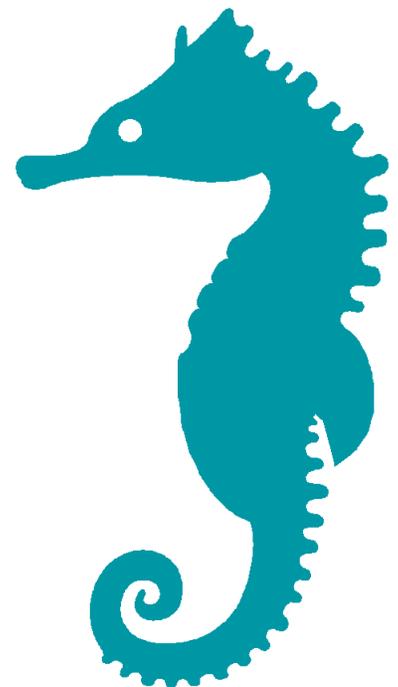
In 2006, the California Supreme Court, in *Auerbach v. Assessment Appeals Board*, considered whether a building that was constructed and owned by a tenant but was situated on land owned by the landlord, changed ownership for property tax purposes when the land changed ownership.

Tommy Hilfiger Retail, Inc. entered into a ground lease with Northern Trust Bank of California who was the trustee for the Stanley and Marguerite Anderson trust. The lease required that Hilfiger either renovate an existing building or demolish it and build a new one. Hilfiger chose to destroy the existing building and to build a new one. The lease provided that during the term of the lease the building would remain the property of Hilfiger and would only revert to the landlord at the end of the lease term.

When John Anderson, the son of Stanley and Marguerite, died, a change of ownership of the land was triggered. Because the land had a low base year value under Proposition 13 and because it was subject to the grandparent-grandchild exclusion, a controversy arose as to how much of the exclusion should apply to the land as opposed to the building. The trust beneficiary's believed that 100% of the exclusion should apply to the land but the assessor determined that only 8% of the exclusion would apply to the land with the balance going to the building. Without going into all of the detail on why it is important, suffice it to say that the assessor's position was going to create a much larger tax liability on the property than the taxpayer's approach.

Ultimately the Court determined that when the land changes ownership the building also undergoes a change of ownership for property tax purposes even if the land owner does not own the building. Whereas this was a bad outcome for the taxpayers involved, it can be a very good case for taxpayers in general.

This is an important decision for any taxpayer who has argued with the assessor over the proper way to assess leasehold improvements. Many assessors will take the position that leasehold improvements should be assessed by the business division of the assessor's office and will not investigate the possibility that the leasehold improvements became a part of the building and sold with the building in any future sale of the property. Over the years, many assessors have made the argument that the lease terms state that the tenant improvements remain the property of the tenant until the end of the lease term. We believe that this case goes a long way in dispelling that argument and taxpayers should be cognizant of this case in reviewing the leasehold improvement assessments made from their Business Property Statement filings or under their mandatory audits. This is especially true in those counties that have an aggressive policy of assessing leasehold improvements by their business division.



The (Informal) Prop 8 Review

Michael Barton, Vice President Real Estate Tax Service

At any time of any year, the Appraisal Staff at your local Assessor's Office has several responsibilities, such as identifying and valuing new construction, tracking sales of existing properties and, thanks in no small part to people in my profession, preparing for and testifying at assessment appeals.

During the spring, the California Assessor's Offices have a few additional issues. For example, wherever there is Construction in Process as of January 1, the Assessor must estimate the value of these partially completed projects and place this value on the roll for the upcoming tax year (this does not typically involve single-family residential). Additionally, in many California jurisdictions, there is an effort to retrieve Income/Operating Statements from the prior fiscal year on all income producing properties.

For 2008, there is another project receiving a great deal of attention both in the media and from the Assessor: The (Informal) Prop 8 Review.

The Prop 8 Review is a process whereby the Assessor seeks to identify properties that have experienced a decline value and to perform an in-house reduction where warranted. It is my understanding that the target of this review is almost exclusively single-family residential properties. There are at least two theoretical benefits of this program: First, again in theory, massive numbers of assessments will be reduced to their appropriate level and excessive tax collections will be avoided. Additionally, the jurisdiction will avoid the clerical nightmare of thousands of unnecessary formal appeals later on.

Some Assessors have become very high profile about this issue in an effort to assure taxpayers that he/she is on the job. Some Assessors have taken the additional step of cautioning taxpayers against hiring a "consultant" to handle both the informal review and, if necessary, the formal appeal later on, claiming that the taxpayer is better off simply trusting the Assessor and allowing his office to do its job. They allege that consultants, at this level, are unnecessary and simply siphon off a portion of taxpayers' refunds or reductions.

IN THEORY, I AGREE WITH THAT POSITION AS IT RELATES TO SINGLE-FAMILY. But more on that later.

I have some personal experience with this program. In 1986, when I was on the other side (Mono County Assessor), my associates and I reviewed every residential assessment in the jurisdiction and reduced numerous values. Back in "the old days", this was a largely manual process and was quite time-consuming, but the process did function in this instance, without the need for representation on the part of the taxpayers.

The issue of when to seek professional representation for a property tax appeal is complex. Most consultants are competent and ethical. If you seek to hire a professional, ask for references and testimonials. Also, question your prospective consultant about his/her experience in formal hearings and retain the right to approve of any decision to withdraw a formal appeal.

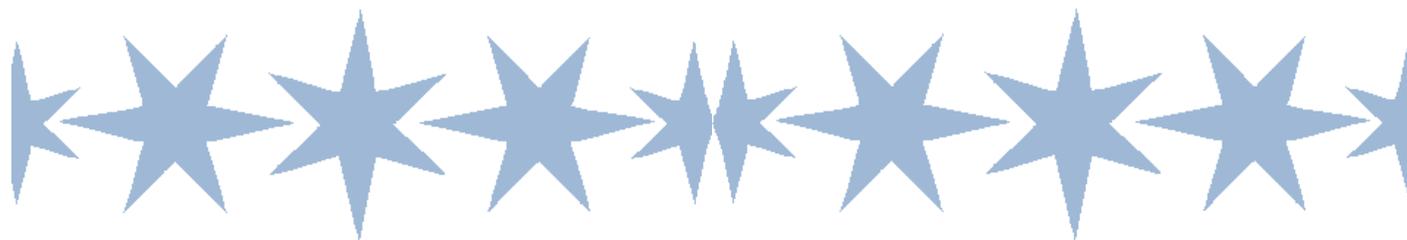
Another consideration involves the physical property identified for a potential appeal. Generally, most taxpayers can, indeed, handle the appeal of their residences on their own, largely due to the fact that single-family appeals address only one approach to value (market approach, whereby one offers three or four comparable sales). For income-producing properties, especially major properties with higher values, professional representation begins to make sense, especially for taxpayers who do not understand the complex issues such as appropriate market expenses and cap rates.

With regard to whether or not the Prop 8 Review process will be successful for 2008, I can offer two words:

We'll see.

I have no doubt the various Assessors in our State fully intend to devote resources to the informal review process. Whether or not each of them has the manpower to carry it off is another matter. Let's hope so.

By the time you read this item, many of your properties will have been reviewed for 2008, especially those purchased since 2005. In the event your value has been adjusted, you will receive a Notice from the Assessor. If you hear nothing and feel your property's value has declined, you should file a formal appeal as soon as possible.



The Assessor's Office Defends Roll Values as Accurate, Are They?

Gilbert Arciba, Tax Consultant

Recently, Property Tax Assistance (PTA) represented a client before the Assessment Appeals Board (AAB) in which the Assessor's Office defended their roll value as accurate and representative of fair market value simply by stating that the equipment was in operation. According to the Assessor as testified to in the course of the hearing; if a piece of equipment is functional and its cost remains on the books, it maintains value, equivalent to the current assessed value..

In California, the property tax standard as prescribed by the Revenue & Taxation Code, Section 110: Fair Market Value (FMV) means the amount of cash or its equivalent that property would bring if exposed for sale in the open market. The Assessor is misconstruing the implied standard as value in use.

During the AAB hearing, PTA submitted market comparables of the subject property to establish our opinion of value. Market comparables of the subject property are the best indicator of value. Ultimately, the AAB agreed with our position.

Distinguishing between value in use and value in exchange is crucial to establishing an accurate opinion of value. PTA established at the AAB that market comparables provided a proper FMV and the AAB agreed. The Assessor will continue to maintain that all cost adds value and functional equipment retains value. This mindset favors the Assessor as it yields higher assessed values. Unfortunately, the taxpayers are the ones being over assessed. In order to preserve your rights to a fair and equitable assessment, property tax appeals must be filed. Appeal filing deadlines begin July 2 and continue, depending on the county, until September 15th or November 30th.



When the doors of opportunity keep shutting, persevere

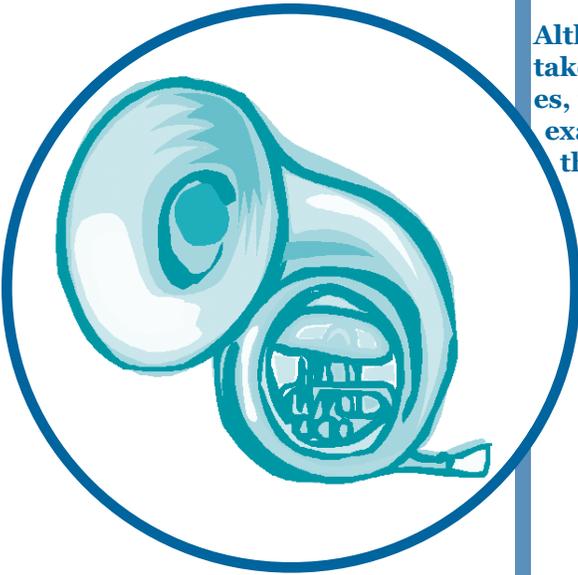
In 1919, a young man tried to get a job at the Kansas City Star as an illustrator but was rejected. His brother helped him get a job with a commercial studio drawing horses, cows, and bags of feed for farm equipment catalogues, but the work dried up just before Christmas and the young illustrator got laid off. He decided to create his own commercial business—experimenting in the new field of animation and after a number of ups and downs, he signed on a big client. Before he could finish the first project, the big client declared bankruptcy, and the artist was left with no choice but to file bankruptcy for his business as well. He scraped together what little money he had and bought a train ticket to California.

Upon arrival the young man got a job as an extra in a Western. But it clouded up and rained on the day of his shoot; the studio ended up replacing him.

So once again the illustrator tried his hand at setting up his own studio with his brother as his business partner. He created a cartoon character named Oswald the Lucky Rabbit for a film studio and Oswald became one of the first Hollywood animated stars. As Oswald's fame increased and the contract for him with the studio was coming to a close, the illustrator believed he could get a better contract elsewhere. So he traveled to New York City where he learned the truth about his Lucky Rabbit and his employees: While he was on the road, the film studio had offered his staff more money and freedom and they jumped ship; also, through a legal loophole, the film studio actually owned the Lucky Rabbit. Once again, the illustrator's business was on the verge of folding.

Before leaving New York City for the West Coast, the young illustrator sent a telegram to his brother saying that everything was okay and he'd explain the details once he got home. But he didn't want his brother to know the truth of the matter, so he started brainstorming how he could turn their fortunes around. He doodled and noodled all the way across America on that train until he came up with a new animated character. Its name? Mickey Mouse. Its creator? The young illustrator who never gave up—Walt Disney.

TOOTING OUR HORN!



Although this is an informational newsletter, we would like to take the opportunity to brag about a sampling of our successes, from various industries, in the last quarter. These are a few examples of the refunds that our clients have received from the county, due to our work.

<i>Computer Storage Device Mfg</i>	\$31,369.95
<i>Food Mfg.</i>	\$340,408.30
<i>Motor Vehicle Part Mfg</i>	\$122,196.06
<i>Machine Shop</i>	\$23,460.33
<i>Metal Can Mfg</i>	\$72,417.90
<i>Plastic Bag Mfg</i>	\$32,042.27
<i>Printing Company</i>	\$32,322.16
<i>Sewing Contractor</i>	\$141,305.64
<i>Stone and Stone Product Mfg</i>	\$49,362.06
<i>Turbine & Turbine Generator-Set Units Mfg</i>	\$25,909.04
<i>Video & Audio Equipment</i>	\$104,321.64

Tax Tidbits

Property Tax: Base-Year Value Transfers.

AB 2579 (Niello), which authorizes the spouse of a claimant for a base-year value transfer to qualify for the transfer, passed the Assembly on a 79-0 vote May 28.

Charging in Home Party Hostesses More Tax

The State Board of Equalization want to charge hostesses tax on the value of the hostess gifts not the amount paid.

Los Angeles to Reduce Values on 128,000 Homes

Los Angeles County Assessor Rick Auerbach announced May 27 that 128,000 homes will be reduced in value this year by an average of \$73,000.

Grocery Bag Tax.

AB 2058 (Levine), which imposes a 25-cent tax (called a "fee" in the bill) on all paper or plastic carry-out bags, to fund recycling and waste-reduction programs, passed the Assembly.



Quotes

Wise advice

“The reason a dog has so many friends is that he wags his tail instead of his tongue.”

—Author unknown

Self-acceptance

“If I won’t be myself, who will?”

—Alfred Hitchcock

On grudges

Don’t carry a grudge. While you’re carrying the grudge, the other guy’s out dancing.

—Buddy Hackett

On helping others

If you want to lift yourself up, lift up someone else.

—Booker T. Washington

On house cleaning

Cleaning your house while your kids are still growing up is like shoveling the walk before it stops snowing.

—Phyllis Diller

On safety

The best car safety device is a rear-view mirror with a cop in it.

—Dudley Moore

Ironic wishing

Millions long for immortality who don’t know what to do on a rainy Sunday afternoon.

—Susan Ertz

It’s summer: Hot dog!

The history of the hot dog stretches all the way back to the 9th century B.C. when sausage was mentioned in Homer’s *Odyssey*. But honest-to-goodness frankfurters didn’t roll around till the late 1600s in Germany. Some believe that the sausages were first called “dachshunds” or “little dogs” because they resembled the shape of a dachshund. We know them

today as hot dogs. And this

year, Americans will eat

enough of them at

major league ball-parks to stretch

from RFK Stadium in Washington,

D.C., to AT&T

Park in San

Francisco. If that

doesn’t impress you,

on Independence Day

Americans will eat enough

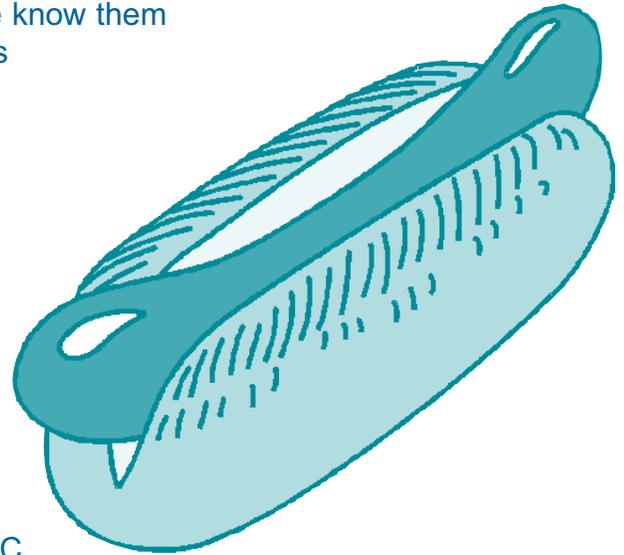
hot dogs to stretch from D.C.

to L.A. five times over. And from

Memorial Day to Labor Day—considered “hot dog

season” by hot dog enthusiasts—Americans will consume 818 hot dogs every second!

—The National Hot Dog & Sausage Council



How to lure more useful information out of people

It takes a good question to get a good answer. Yes, it would be nice if others remembered to give us all the details about something the first time the subject came up. But we can cut to the chase by controlling the way in which we ask questions.

Always try to have a “specific” in every question you ask. A specific is a word that forces others to give you information. For example: Don’t say, “What do you mean?” Instead say: “What, precisely, do you mean by _____?” Don’t say, “How much bigger is the job?” Instead say: “In what ways is the job bigger?” Training yourself to ask questions in this manner will not only make you a better communicator, but it will also encourage more effective communication from the people with whom you interact.



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Property Tax Update

Appeal Filing Season Begins

Appeal filing season begins July 2 and ends September 15 or November 30th, depending on which county you are in.

Some of the major counties filing deadlines are:

Alameda	9/15
Contra Costa	11/30
Los Angeles	11/30
Orange	9/15
Riverside	11/30
San Bernardino	11/30
San Diego	11/30
Santa Clara	9/15

(to see all of the counties deadlines visit,
<http://www.boe.ca.gov/proptaxes/pdf/filingperiods.pdf>)

Can you sell your machinery and equipment on the street for what the county says it is worth? If not give us a call. We can file appeals for you and possibly lower your taxes, giving you extra money in your budget for other important needs.

Lisa Henry 562-920-1864 ext. 209