



PROPERTY TAX UPDATE

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

FALL

2013

THESE SALES TRANSACTIONS SHOULD BE ANALYZED

Sean P. Keegan, EVP & Principal

SHOULD THE ASSESSOR VALUE YOUR PROPERTY SOLELY ON YOUR PURCHASE PRICE OR THE REPORTED PURCHASE PRICE OF COMPARABLE PROPERTIES?

The West Coast has experienced the roller coaster effect of property value swings over the last couple of years. Although real property values for certain property types have been improving in certain areas (e.g. multifamily, industrial, and commercial properties), recent real property transactions should be reviewed for possible property tax savings. In certain jurisdictions such as California, the subject property's purchase price is presumed to reflect the property's fair market value. This value is typically enrolled as the "new" base year valuation.

It is important to determine whether the Assessor knows the facts about your property including any limitations to the annual income at the time of sale (i.e. restrictions, expensive renovations, demand due to newer projects nearby, age, or the expected changes associated with your property). Is the data accurate from the Operating Statement or is the Assessor using the broker reported income given to the market reporting service? The actual property income and expenses may certainly indicate that your property transferred at a premium (i.e. non-arms length transaction, sale leaseback, or a long-term lease at an above market lease rate). Other considerations: Is the buyer a Real Estate Investment Trust (REIT) looking to enter a competitive property market within a short time frame? Or is the buyer highly motivated to purchase a replacement property due to income tax reasons?

In California, a property may be reassessed due to an ownership change where a market sale is not present. In these cases, additional steps are usually required in verifying the Assessor's sales comparables offered to value your property! A sale comparable with a broker reported capitalization rate may require adjustments since the rental income or expenses may not be accurate. The California Assessor's Handbook (AH) 501 states "[T]he income used in rate derivation must be the investor's anticipated income, because the decision to invest in property is directly related to its anticipated return." If the anticipated income is not reasonably accurate for the subject property or a comparable property, it can create a flawed value result.

An example where closer review may provide some tax savings benefits; the Assessor considers a sales comparable with a reported net operating income (NOI) of \$1,000,000 for a newly built office property. The reported sales price is \$20,000,000. The overall rate is calculated as 5%. The Assessor then utilizes the 5% in their value calculation for your property. However, the tax consultant interviews the buyer and the investor reasonably expects to receive parking income from the tenants rather than allowing free parking to continue, the NOI estimate would increase by \$200,000 to \$1,200,000. Therefore, the investor's anticipated income with the same purchase price would provide an overall rate calculation of 6%.

In California and Washington, the County Assessors have already issued their 2013/2014 values for land and improvements. The deadline to file an assessment appeal in most California counties is November 30th and it varies in the other West Coast States. The counties will review these assessments as they are appealed. For properties acquired during 2012 and 2013, it is possible that your property values may have changed compared to the County enrolled values.

Fee's Everywhere

Ron Gangloff EVP & Principal

Every year the 58 local assessors in California assess all nonexempt property in the state for purposes of collecting property tax. That tax is based on the Fair Market Value of the property as determined by the assessor's office. Historically it was thought that if the Government was going to collect a tax based on a basis as subjective as market value a system should be put in place that would allow the taxpayer to contest the value as found by the local assessor. For 100 years or better there were no fees associated with that contest, which is evidence in and of itself that the founders of the system felt no fees should be collected which might inhibit a person to protest his tax.

Fast forward 100 years or so and the fee scene is exploding as it relates to challenging the property tax assessment. The first fee started when the county began charging to write findings of fact for the board decision. There is a current court case that requires a written finding from every board in California because the board sits as the trier of fact. Any appeal to superior court, which is every taxpayer's right, requires a written finding so the reviewing court has a record on which to review. So even though a finding is technically required there is a fee for both the finding and in some counties a fee for the attorney to write the findings. These fees can run into the thousands of dollars. This is troubling considering that in many instances the attorney does significant work to legally justify the board finding instead of reporting the legally justified finding of the board. The effect is that the taxpayer pays for the board to legally justify its often arbitrary finding.

More recent fees include: hearing fees, appeal application fees and agent registration fees. Some counties require a fee if an actual hearing is necessary. This fee can also run into the thousands, but very few counties currently charge a fee for a hearing. Many counties also require a fee on every appeal application filed. Currently 31 of the 58 California Counties charge application fees. The fees range between \$25-\$200 and average around \$35. Los Angeles County now requires every person, with certain exceptions, to pay a \$250 fee in order to be allowed to work on property tax matters in that county.

Most recently both San Diego and Sacramento instituted fees which would require outside agents to pay a fee of between \$63 and \$126 for each outstanding refund inquiry an agent makes on behalf of his clients. Interestingly no fee is charged if the client makes its own inquiry. The Counties feel that too many inquiries are being made. In contrast agents believe that if the counties were required to refund taxpayers money timely not nearly as many inquiries would be made.

The bottom line is this. At one time it was considered a privilege granted to the government to collect a property tax and the system allowed for a protest that was paid for from the tax collected. Collecting a tax has become a right and you must pay to protest it. For some, the right to protest might be lost as these costs increase.

Unleash your creativity with the right questions

People often talk about creativity as if it must arrive as a bolt out of the blue, a flash of inspiration that strikes without warning.

In truth, however, there are ways to manufacture creativity, and most of them have to do with asking the right questions. The next time you've got a tricky problem to solve, try these queries to start thinking differently:

- What would happen if . . . ?
- Can we do this a different way?
- Why do we do it this way?
- What's the silliest way we could do this?
- What's the worst thing we could try?
- If solving this problem were a matter of life and death, what would we do?
- If we were one of our competitors, how would we do it?
- What three changes would make this idea better? What would make it worse?

TOOTING OUR HORN



Tax Tidbits

I filed an assessment appeal and I am awaiting a hearing date. The second installment of my property taxes is coming due soon. Do I have to pay it even though I am contesting the value?

Yes. You are required to pay your property taxes timely despite any appeal you have pending. Failure to do so will result in financial penalties and interest charges regardless of the outcome of your appeal. If you are granted a reduction, you will receive a refund and interest.

What do I need to do to prepare for my hearing?

In preparation for your hearing, you will need to collect and organize the evidence you plan to present to the hearing officer or appeals board. The evidence must support your opinion of the 'fair market value' of the property covered by your application. At the hearing, you and the county assessor will be given an opportunity to present factual evidence to substantiate your opinions of value. You and the county assessor may question each other regarding the evidence presented.

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.

Business Personal Property

Architectural & Structural	\$51,272.64
Biopharmaceuticals	\$477,050.73
Cargo Transportation	\$230,341.60
Hospital	\$37,636.95
Food Manufacturing	\$353,171.05
Grocery Stores	\$40,152.16
Industrial Goods	\$30,643.65
Information Collection & Delivery	\$212,993.36
Plastic and Rubber Products Mfg	\$555,556.00
Recreational Vehicle Park	\$244,084.38
Semiconductor Mfg.	\$178,454.11
Tire Manufacturing	\$72,141.52
Warehousing and Storage	\$54,316.77
Wood Window & Door Mfg	\$49,275.91

Real Property

California

Multifamily Property - Alameda County	- \$172,489
Retail Property - Fresno County	- \$34,319
Retail Property - LA County	- \$40,015
Multifamily Property - Orange County	- \$46,693
Office Property - Orange County	- \$267,392
Retail Property (4 Properties) - Orange County	- \$37,234
Multifamily Property - Placer County	- \$20,203
Storage Property - Placer County	- \$13,209
Multifamily Property - San Francisco County	- \$1,749,055
Retail Property - San Bernardino County	- \$61,096
Multifamily Property - San Francisco County	- \$135,716
Industrial Property - San Joaquin County	- \$20,110
Multifamily Property - Santa Clara County	- \$30,048
Retail Property - Ventura County	- \$167,111

Washington

Multifamily Property - King County	- \$201,792
Multifamily Property (4 Properties) -	- \$156,825

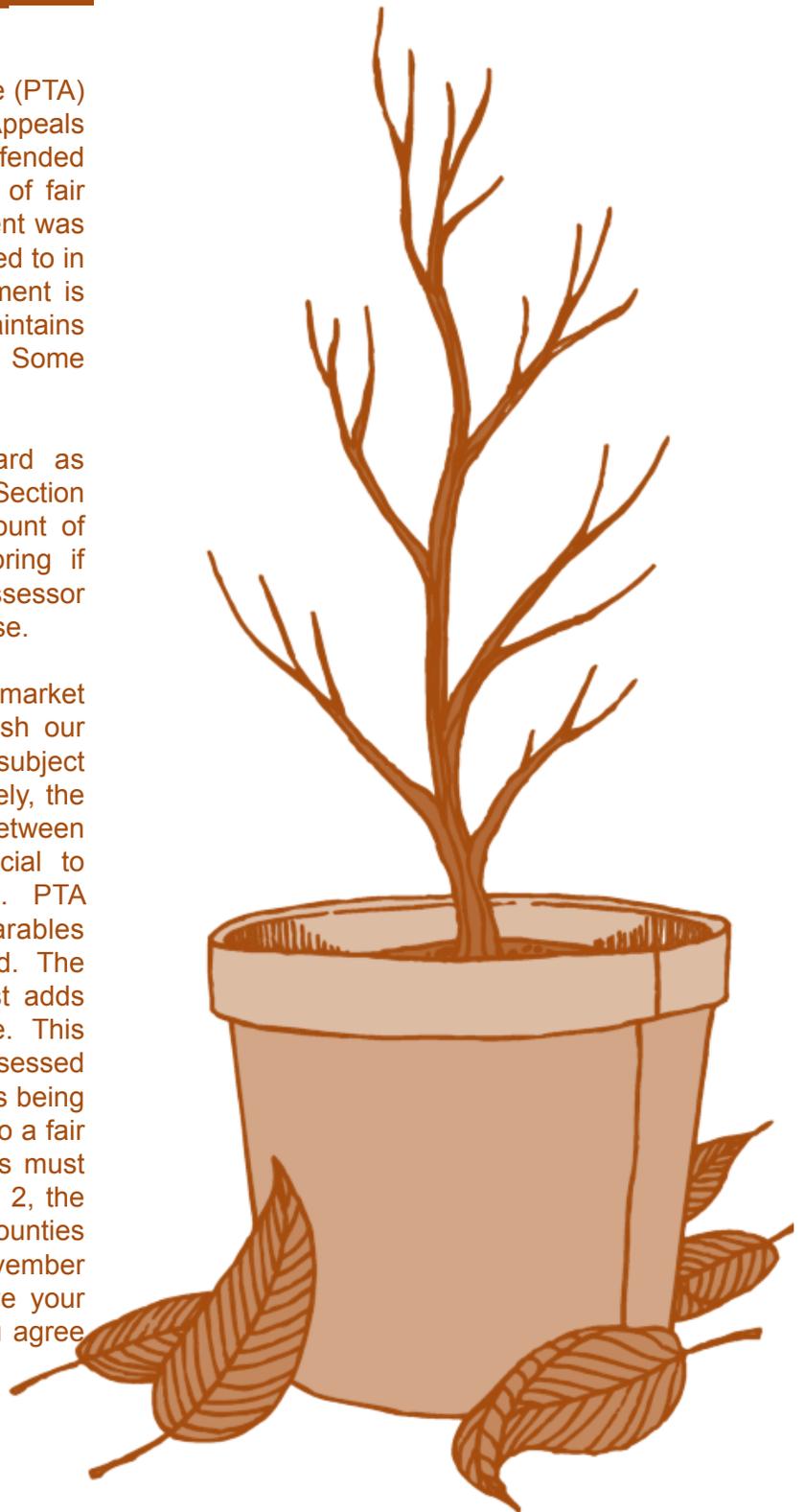
Are the Assessors Roll Values Accurate?

Gilbert Arciba, Sr. Tax Consultant

A few years ago, 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. Some Assessors still maintain this is true.

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 misconstrued 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. The appeal filing deadlines began July 2, the September 15th deadline has passed for some counties but the majority of the counties have until November 30th. You can always file an appeal to preserve your rights, and withdraw later if you decide that you agree with the assessor's assessment.



Quotes

If you have fun at your job, I think you're going to be more effective.

—Meg Whitman

A word to the wise ain't necessary—it's the stupid ones that need the advice.

—Bill Cosby

The love of family and the admiration of friends is much more important than wealth and privilege.

—Charles Kuralt

As a child my family's menu consisted of two choices: take it or leave it.

—Buddy Hackett

Family means no one gets left behind or forgotten.

—David Ogden Stiers

You don't have to hold a position in order to be a leader.

—Anthony J. D'Angelo

For true success ask yourself these four questions: Why? Why not? Why not me? Why not now?

—James Allen

I never thought of losing, but now that it's happened, the only thing is to do it right. That's my obligation to all the people who believe in me. We all have to take defeats in life.

—Muhammad Ali

If we knew what it was we were doing, it would not be called research, would it?

—Albert Einstein

Calculating Assessments

Brent Buskirk, Tax Consultant

Is the mass appraisal technique fair?

Every person in the state of California owning taxable personal property with a cost of at least \$100,000 must file a business property statement (571-L) every year. Once each county receives the property statements, depreciation factors are applied to the acquisition costs for the accounts reported to determine a total value for the property. The factors applied to these costs will vary depending on the type of business and equipment being valued. Once the Assessor's Office has calculated a value for the property, the Tax Collector issues a bill based on this value and the applicable tax rate.

This is a mass appraisal technique that allows the counties to assess each taxpayer in a time efficient manner. However, this technique does not always result in a fair or accurate assessment. Often times there are underlying issues that are not addressed by simply applying depreciation factors to acquisition costs. This is important to note because the higher the county's established value, the higher the tax bill.

In the case of real estate, property is reassessed only in the event of a change in ownership or new construction. Once this base year value is set, the value can only increase by a maximum of 2 percent per year. In the same fashion as personal property, this value is multiplied by the applicable tax rate to determine the tax liability for the year. However, this trended base year value does not always result in a fair or accurate assessment. Proposition 8 allows for tax relief when the fair market value of the real estate falls below the trended base year value.

Because of the volume of assessments that each county has to process, the Assessors' Offices are not always aware of the technical issues that some assessments may encounter. Property Tax Assistance deals with these issues on a regular basis. Taxpayers' values may be adversely affected by market conditions, incorrect classifications, over reported costs, or even Assessor error. As previously stated, these issues are typically not accounted for in the counties' depreciation tables or trended base year values.

When these issues arise, PTA files an appeal on the taxpayer's behalf to work out a new value with the Assessor's Office. The two deadlines to file these appeals are September 15 and November 30. The applicable deadline will depend on which county the property is reported to. If you believe that this may be a concern for your personal or real property assessments, please call us, we would be happy to discuss the options with you as a courtesy.

What kind of music did the Pilgrims like?



Plymouth Rock

PTA

Volume 18, Issue 4

Presort Std
U.S. Postage
PAID
WMS

David L. Gangloff Jr., Esq.
CEO & Principal
Property Tax Assistance Co., Inc.
16600 Woodruff Ave.
Bellflower, CA 90706

For information please contact:

Lisa Henry
562-282-5911
LHenry@property-taxes.com

www.property-taxes.com

Bellflower, CA (Corporate Headquarters)
Property Tax Assistance Co., Inc.
16600 Woodruff Ave.
Bellflower, CA 90706
Phone 562-920-1864 Fax 562-920-5775
PTA@property-taxes.com

Bay Area Office
Property Tax Assistance Co., Inc.
1981 N. Broadway, Suite 342
Walnut Creek, CA 94596
Phone 925-942-1004 Fax 925-942-0369

Property Tax Update

"Always remember . . . Goliath was a 40 point favorite over David." Shug Jordan / Auburn

"They cut us up like boarding house pie. And that's real small pieces." Darrell Royal / Texas

"Show me a good and gracious loser, and I'll show you a failure." Knute Rockne / Notre Dame

"They whipped us like a tied up goat."
Spike Dykes / Texas Tech

I asked Darrell Royal, the coach of the Texas Longhorns, why he didn't recruit me and he said: "Well, Walt, we took a look at you and you weren't any good." Walt Garrison / Oklahoma State

