

SCHOENBERG, FISHER, NEWMAN & ROSENBERG, LTD.

Editor's Corner by Herbert B. Rosenberg
October 2002

REAL ESTATE TAX NEWSLETTER

Appeal of 2001 Tax Rates

We have concluded a successful property tax season. The 2001 Cook County triennial was a reassessment in the Northwest Suburbs. Our firm successfully represented taxpayers who owned various types of real estate from family residences to large industrial and commercial buildings. Our property tax team diligently pursued all remedies on behalf of our clients to achieve a bottom line tax result.

The second installment of the 2001 tax bill has recently been mailed to Cook County taxpayers. It is no longer necessary to pay your taxes under protest to appeal your tax rate. However, if you wish to pay your own tax bill, please send us a **complete** copy of your tax bill. You will then be a part of the lawsuit which objects to the tax rates within your taxing district.

If you desire, we will pay your tax bill to the Cook County Collector. The only requirement is that we receive a **complete** copy of your 2001 second installment tax bill. In summary, please do the following if you desire our firm to pay your 2001 second installment tax bill:

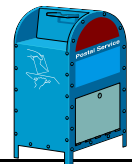
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1. Prepare a separate check for each tax bill payable to the Cook County Collector for the exact amount of the Second Installment Tax Bill;
2. Place the permanent real estate tax number on each check;
3. Mail the check and the complete tax bill to our office at the following address:

Schoenberg, Fisher, Newman & Rosenberg, Ltd.
222 South Riverside Plaza
Suite 2100
Chicago, IL 60606
312-648-2300

Attn.: Mr. Thomas Dorsey
Property Tax Department



TAX BILLS AND CHECKS SENT TO OUR OFFICE WILL BE PRESENTED TO THE COOK COUNTY COLLECTOR FOR PAYMENT ON OCTOBER 26, 2002. THEREFORE, PLEASE SEND YOUR TAX BILLS AND CHECKS TO OUR OFFICE AS SOON AS POSSIBLE TO ALLOW US TIME TO PREPARE THE PROPER ADMINISTRATIVE FORMS.



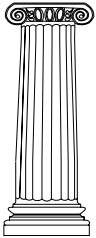
A SPECIAL THANKS FROM SFN&R TAX TEAM

HERBERT B. ROSENBERG
HENRY A. HAUSER
MONA TERRAZAS
THOMAS DORSEY

WE THANK YOU FOR YOUR COOPERATION AND WE LOOK FORWARD TO SERVING YOU IN THE FUTURE TO ACHIEVE A BOTTOM LINE TAX RESULT FOR A BOTTOM LINE PROFESSIONAL FEE.

Illinois Appellate Court Deals Double Blow to Taxpayers

First Blow to Taxpayers



The Appellate Court recently adversely decided a landmark case against Cook County taxpayers which would have significantly reduced the amount of their property taxes (*Cook County Board of Review v. The Property Tax Appeal Board, Robert Bosch Corporation, et. al.* [“Bosch case”]). This case concerned the level of assessment percentage on commercial property mandated by the Cook County Property Assessment Classification Ordinance (“Classification Ordinance”). The Property Tax Appeal Board applied the median level of assessment of 27% for commercial property as mandated by the Illinois Department of Revenue under its Sales Ratio Studies in determining the assessed valuation rather than the Cook County Ordinance level of assessment of 38%. A successful decision for the taxpayer in this case would mean that your tax bill, regardless of whether you own a commercial, industrial, multi-family or family residence, would automatically be reduced by 40%. The Appellate Court determined that the taxpayer did not meet its burden of proof by clear and convincing evidence. The Court stated that the “one page handwritten summary document submitted by the taxpayer was weightless from an Appellate perspective.”

We believe this case will be appealed by the taxpayer to the Illinois Supreme Court.



Second Blow to Taxpayers

Our recent Newsletter made taxpayers aware that Cook County taxpayers have the benefit of an additional administrative remedy before the Property Tax Appeal Board in the same manner as all of the other taxpayers who own property outside of Cook County. This additional administrative appeal has proven to be beneficial to many of our clients. The Appellate Court in the Bosch case stated that evidence, such as

appraisals, not submitted to the Cook County Board of Review cannot be submitted to the Property Tax Appeal Board. Prior to this court decision, in some cases, we advised clients to secure an appraisal for a Property Tax Appeal Board petition when we were not satisfied with a Board of Review decision achieved without an appraisal. As we informed you in previous Newsletters, a Property Tax Appeal Board appeal can result in a tax increase as well as a tax decrease. Therefore, we usually advise clients to secure an appraisal for a Property Tax Appeal Board appeal even though an appraisal was not submitted to the Board of Review.

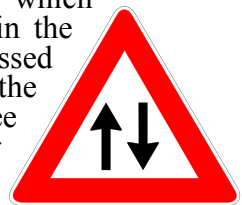
EDITOR’S COMMENT

A taxpayer will have to make a decision to incur greater costs at the Board of Review to preserve the remedy before the Property Tax Appeal Board.



A Factual Change in a Non-Reassessment Year Can Reduce a Tax Bill

The majority of tax reductions which we secure for our clients are in the year that the township is reassessed by the Assessor. Most of the reductions should be for three years, except for one year vacancy reductions and other unusual circumstances that cause either the Assessor or the Board of Review to mark the reduction “one year only”. In some cases, the Assessor, in a non-reassessment year, will increase, for no apparent reason, the assessment on a property. Each year we verify for our clients that the assessed valuation has not increased above the final assessment of the previous year. If a client’s assessment increases, we notify the client so that we can be authorized to prepare the appropriate appeal. However, we do not have the capability of knowing about a factual change that would entitle a client to a reduction below the taxpayer’s current year’s tax bill. Therefore, we depend upon your telephone call, letter, e-mail or facsimile to inform our Property Tax Team if one or more of the following factual changes has occurred with respect to a property:



- ▶ physical vacancy of the property;
- ▶ a casualty loss such as a fire or flood;
- ▶ economic vacancy of the property if a tenant does not pay all or part of its rent or the rents on a property are reduced for economic reasons;
- ▶ excess vacant land if a portion of the property has been set aside for future development;
- ▶ unusual soil conditions if a portion of the property is not buildable;
- ▶ environmental contamination which requires that a portion of the property be remediated;
- ▶ condemnation; or
- ▶ improvement of the property such as an addition to the property or converting industrial space into office space.

These and any other unusual property conditions must be communicated to our office as soon as possible so that we can achieve for you the lowest real estate tax bill in each year of the assessment period. Unfortunately, many of our clients do not communicate the change in circumstances to our office.



**Good News for Cook County
Taxpayers who own Multi-Family
Apartment Buildings (Over Six Units)**

On April 9, 2002, the Cook County Board ratified a proposal by Assessor Houlihan to amend the Cook County Classification Ordinance to reduce the level of assessment for multi-family apartment buildings from 33% to 30% in 2003 and to 26% in 2004 and thereafter. The purpose of the ordinance is to encourage construction of new apartment buildings in Cook County.



EDITOR'S COMMENTS

The change in the law should allow taxpayers who own apartment buildings to receive a reduction in their 2003 tax bill. However, 2003 is a triennial reassessment in Chicago. The sixty-four dollar question is whether the Assessor will use the lower level of assessment as a justification for determining a higher value for the property?



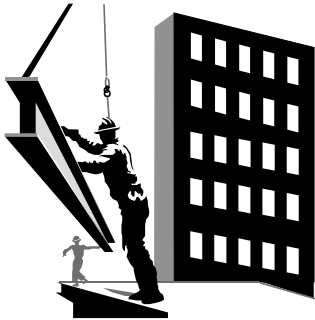
**Purchase Price or Construction Costs
are Greater than Assessor's Value -
SHOULD YOU APPEAL?**

Many real estate assets have been purchased and sold within the past three years. Many taxpayers assume that if the purchase price exceeds the Assessor's value that a property tax appeal should not be filed, even if the Assessor's value represents a significant increase over the previous triennial assessment. There are many components to a purchase price. Some of the components of the purchase price may not be subject to real estate taxation. Only real estate is subject to real estate taxation. All of the other components that make up the purchase price are not subject to real estate taxation. The components not subject to real estate taxation include the following:

1. Personal property;
2. A premium paid for business value for a hotel, motel, theatre, restaurant, or other form of entertainment facility;
3. A premium paid for location so that a taxpayer is in close proximity to another location;
4. A premium paid for location so that a taxpayer is in close proximity to its customers;
5. A financing cost as in a sale and leaseback;

- 6. A premium paid for a special use facility; or
- 7. A premium paid for future investment value such as the purchase of an apartment building which the purchaser may intend to convert to a condominium.

The same principle applies for new construction. In many cases, the construction cost of a new facility exceeds the value for the facility as determined by the Assessor. Many taxpayers assume that where the Assessor's value is less than the construction cost that no tax appeal should be filed. However, there are many components that may be a part of the construction cost and the acquisition of the site area that are not



related to real estate, such as financing costs and premiums paid for the acquisition of the site area for various business reasons. In addition, many special purpose facilities such as theatres, bank facilities and other special purpose facilities have a substantial amount of depreciation upon completion of the project. If the projected stabilized income required by a willing buyer based upon the construction cost is less than the actual income which a willing buyer will receive, then the shortfall or deficiency capitalized by a reasonable capitalization rate is referred to as external obsolescence. We have successfully advocated this proposition in various types of hotels, motels, theatres, banks, and other forms of facilities.

These types of cases must be carefully prepared, usually with the assistance of capable appraisers as expert witnesses. It is a delicate balancing act to determine if these are non-real estate components to the real estate purchase price or construction costs. A mistake in judgment could either result in the unnecessary overpayment of the real estate tax bill if a tax appeal is not filed which should have been filed or an undervaluation complaint being filed against the property if an appeal is filed which should not have been filed.

EDITOR'S COMMENTS

When you purchase or construct a new facility, allow our Property Tax Team to make a property tax analysis on whether to file a Tax Appeal.

You should also be aware that property tax planning is just as important as any other form of business or personal financial planning. The attorney who represents you in the acquisition or construction of a new facility must understand the ramifications that the purchase price or construction cost can have on the property tax bill that will be issued by the County Treasurer upon the closing or upon the issuance of a certificate of occupancy. The attorney should carefully consider the allocation of the purchase price or construction costs between real estate and non-real estate components.

EDITOR'S COMMENT

Our Property Tax Team can either assist you in tax planning related to the purchase of real estate or the construction of a building.

