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Condominium Association Tax Appeals... Experience Is Key

Property taxes are a big issue for home owners. And, if not handled properly, they can become a time-consuming and frustrating problem for property managers and board members.

Condominium Associations have the right to appeal tax assessments on behalf of all unit owners. These are called collective appeals. Property managers and attorneys are expected to manage the process and if they do their job well, things will go smoothly and the owners will be happy. If not, the journey can become frustrating for all involved.

The attorney is a key participant in the tax appeal process. He will guide the association and the property manager through the process, educate and inform them, provide advice each step of the way and be responsible for obtaining the best results possible. In that mission, the attorney's experience is key. It makes all the difference in the world.

Obtaining The Best Results Possible

Some unit owners have become well versed in property tax issues. They expect top-notch results and want to know their taxes are as low as possible. They expect the property manager and the attorney to make that happen.

Inexperienced attorneys may believe the process simply involves filing a complaint and presenting evidence of recent sales in the building. That is certainly part of the process, but obtaining

top-notch results involves much more than that. Experienced attorneys have encountered many issues, problems and opportunities over the years and have seen it all. They have lived through cycles of inflation and deflation. They understand how the assessing officials think. They know what needs to be done to obtain the best results possible. Here are some ways where experience makes a difference:

» **The attorney needs to ask the right questions and learn critical facts to build a strong case.**

For example, are there many distressed sales in the building; have distressed sales become the market; have views been impeded by new, adjoining buildings; do investors own a large number of units; do parking spaces have their own PINs; to what extent do parking spaces inflate sales prices; are there many vacant units in the building; are there many vanilla box units in the building; are there commercial units that need to be valued differently than the residential units; and, are there residential units whose assessed values are extraordinarily high requiring them to be appealed separately?

» **The attorney needs to build rapport and trust with the assessing officials.** These relationships are built over many years of working together. This is critical to the negotiation process.

» **The attorney needs to be an effective advocate.** He must present the case simply, clearly and persuasively. He cannot be afraid to try the case. And, if he proves himself to be an effective litigator, he will obtain better settlements in the future.

» **The attorney needs to be persistent.** He must monitor developments in the market and contest whenever the facts warrant, including non-reassessment years and years when the assessment has already been decreased by the Assessor, but not enough.

Education, Customer Service And Advice

In addition to demanding top-notch assessment reductions, clients want to be guided through the process by a skilled hand. They want their lawyer to educate and inform them, answer their questions, communicate proactively and advise them what actions to take so the process moves smoothly. This is every bit important as obtaining great assessment results.

Experienced lawyers learn (the hard way) what the client's hot buttons are and how to handle delicate issues that come up. Here are some of them:

» **Budget or bill-back.** Tax appeal costs are a common expense that can be paid from the Association budget. When paid from the budget, unit-owner involvement and questions are minimized. But, many Associations prefer to bill owners back. The experienced attorney will educate and inform the client, advise of the pros and cons and offer options to minimize impact on the budget.

» **Senior Citizen Assessment Freeze Issues.** Seniors freeze recipients often complain about paying tax appeal costs because they believe collective appeals do not benefit them. The experienced attorney will educate the client how collective appeals do benefit seniors, explain to the Association the pros and cons of billing back seniors (or not) and present options. This is a key issue that comes up over and over again and must be handled tactfully by the attorney.

Explaining that assessment appeals do not cause the senior to lose their freeze. Seniors often believe that the filing of a collective appeal will cause them to lose their senior freeze exemption and pay more. Unfortunately, the assessing officials often perpetuate this myth. The filing of a tax appeal will never cause the senior to pay more. The experienced attorney knows this and can effectively educate its clients and assist in communicating this fact to frustrated seniors.

» **Opt-Outs.** Unit owners occasionally ask to opt-out of collective appeals. The experienced attorney knows opt-outs are not permitted by the Condominium Property Act, are contrary to the concept of providing collective (and not selective) services and create bad precedent. However, the experienced attorney can present an effective option: the homeowner can file an appeal on its own and thereby effectively opt-out of the collective appeal.

» **Tax Savings.** Clients often ask how the assessment reduction obtained in a collective appeal results in a tax savings. They often compare their current tax bill to the prior one; however, that is not the savings. The savings is determined by comparing the current year tax bill to the one that would have been issued had no reduction been obtained. The attorney must provide this comparison.

» **Proactive Communication.** Proactive communication is essential for the process to work smoothly. Experienced attorneys know this well. The attorney must communicate proactively with his client and the association must communicate proactively with its unit owners to keep all informed. The experienced attorney knows the importance of proactive communication and can supply template correspondence to the property manager to make the job of communicating with unit owners easier and more accurate.

We filed appeals to the Assessor and Board of Review and reduced assessments resulting in over \$500,000 per year in tax savings (over \$1.5M for the triennial).

A Real World Example

Here is a real world example that illustrates some of the points mentioned in this article.

Our firm represents a premier 342 unit condominium development with 472 deeded parking spaces located near Chicago's lakefront. The association was faced with an 88% assessment increase, largely because the prior assessment erroneously reflected application of significant occupancy factors (but, the building was fully occupied). The Board was concerned about this big increase. They wanted assessments reduced as low as possible and needed help communicating with their owners who were concerned about the impact on their tax bills.

The board was proactive and asked our firm to meet with them to develop a plan for contesting these increases. We recommended they write their owners to advise of our engagement and to outline the actions we intended to take. We provided a template letter for their use.

Application of the standard valuation metric used by the Assessor and Board of Review, which values the entire building based on recent sales and spreads that value among individual units according to their percentage of ownership, suggested the building was fairly assessed in the aggregate and that an appeal would be unsuccessful. But, analysis of individual units indicated some were over-valued and some under-valued, with the unders and overs averaging out.

We presented the board an analysis of the fair market values placed on each unit by the Assessor and what we thought correct market values should be based on recent sales of comparable units with adjustments for views and elevations. From this analysis, it became apparent premium units (highest floors, best views) were generally under-assessed, least premium units were slightly over-assessed and parking spaces were substantially over-assessed (more than double their value).

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Our valuation model confirmed that, following appeal, individual units were valued fair to low, that premium units were generally undervalued and the parking spaces were substantially overvalued.

The Assessor and Board were unwilling to reduce the parking spaces assessments because they believed aggregate assessments were fair. So, we obtained an appraisal of the parking spaces (which confirmed their assessed market values were more than double true values) and filed an appeal to the Property Tax Appeal Board. We expect to try that case and obtain substantial tax refunds for the triennial period. ■



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