

[Law & Policy]

Finding Relief

Property Tax Appeals for Industrial Assets Yield Rewards

By Sharon DiPaolo, Esq.

While it is common knowledge that tax relief is available for newly constructed industrial facilities that bring jobs and infrastructure to a region, business owners often overlook the opportunity to reduce property taxes on their existing facilities. That's a pity, because successful property tax contests are a source of "found money" that goes straight to the company's bottom line.

Those savings can be significant. In Pennsylvania, a 2.5 million-square-foot manufacturing plant that had not challenged its assessments in more than a decade was overvalued by \$30 million. An appeal ultimately yielded \$500,000 in annual tax relief.

Public perception vs. reality. Tax appeals for industrial properties present unique challenges. In rural areas, the property owner is often the region's largest employer and the largest taxpayer in the jurisdiction, so that reducing the assessment also reduces funds available to local schools. Development costs are both widely publicized and somewhat misleading, because investment in equipment, site preparation, training and other items frequently exceeds the real estate's fair market value. News stories about that \$100 million plant can come back to haunt the owner who tries to argue for a more realistic assessment.

Moreover, for properties developed with the help of government incentives or tax abatements, an owner seeking a tax reduction may run into community resentment

when local media report on the contest.

Expect a fight. Taxing jurisdictions will fight hard against a tax contest. Authorities typically delay the litigation, often from a sense of outrage rather than anything else. When an appeal seeking hundreds of thousands of dollars of tax relief stretches into multiple years, winning a favorable ruling becomes progressively more difficult for the property owner. At trial, the case is typically decided by a local judge, who is mindful that a reduction would have a negative effect on local districts. The property owner must strike a delicate balance, continuously pushing the litigation forward while staying sensitive to its larger impact.

"Face-to-face meetings, both internal and external, are essential when managing property taxes for a large industrial prop-

erty owner," said Christine Rohde, manager of property tax and incentives at Alcoa Inc., where she oversees tax protests. "When possible, I make every effort to inspect our sites and meet with plant management to explain the process and answer questions. Meeting personally with out-of-state assessors helps build relationships and allows both parties to work through the valuation issues to arrive at assessments that are fair to all concerned."

The property owner's tax counsel must also push the litigation. Courts seldom specify a timetable for bringing the case to trial, and jurisdictions will try to delay the process by asking for continuances. Tax counsel must produce an appraisal promptly, call the jurisdiction's counsel regularly, invite representatives of the jurisdictions to inspect the facility and ask the judge to schedule conferences or pre-trial meetings. As Rohde noted, tax counsel should meet face to face with the jurisdiction's representatives whenever possible and be prepared to travel to the property repeatedly.

Valuation challenges. Differences among industrial properties—heavy manufacturing, light manufacturing, office/flex, warehouse and distribution centers—greatly affect valuation, so hire professionals with demonstrated expertise in appraising the specific category of the industrial property in question.

Owner-occupied properties, which have no rental income to capitalize, present another challenging situation. Or the property may have a mix

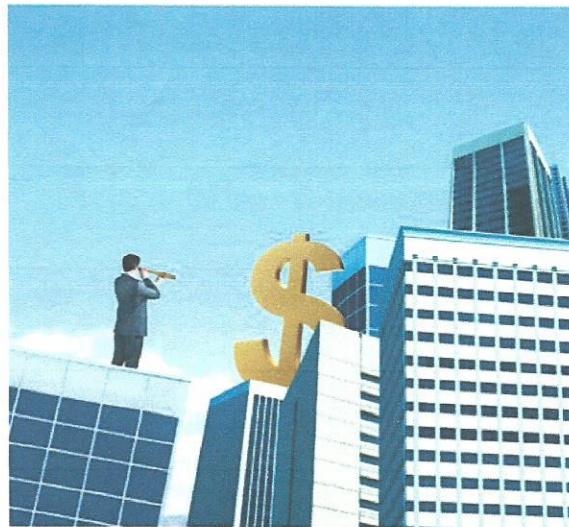



Image by DNY59/Stockphoto.com

of uses, as with a corporate headquarters campus that has offices, research and development space and training facilities.

Finding comparable properties for the appraisal can be an issue, as well. A special-purpose property, such as an ethanol plant, cannot be easily used by another user. Even generic manufacturing space is subject to external obsolescence, or incurable factors that affect valuation and are beyond the physical boundaries of the property. External obsolescence might reflect a scarcity of a natural resource used in the manufacturing process, or extended travel time to the closest interstate highways, either of which can severely impair value.

If the property is the only one of its kind in the state, the appraiser may seek comparable sales out of state. The assets being used as the basis of comparison are often attracted by economic incentives to places where they would not otherwise go, perhaps far from suppliers or interstate highways. These locational issues detract from fair market value and the associated comps can reduce the assessment and property taxes for the contested property.

The checklist. Evaluate industrial property for potential tax appeals annually, and know the jurisdiction's idiosyncrasies. Can the property owner meet informally with the assessor? Does the taxing authority have a reputation for being litigious?

Keep the property owner's public relations department involved, and be mindful of how an appeal is presented and perceived. Get an appraisal from the most experienced professional in the property type and one who presents well on the stand. And, finally, push the appeal through to conclusion. 

Sharon DiPaolo is a partner in the law firm of Siegel Jennings Co., L.P.A., the Ohio and Western Pennsylvania member of American Property Tax Counsel, the national affiliation of property tax attorneys. She can be reached at sdipaolo@siegeltax.com.



FROM THE INSIDE

HEAR FROM THE EXPERTS!

CPE's experts' blog features video and written commentary from top names within and serving the commercial real estate industry, covering topic areas critical to the industry's success.

Michael Fried and Keith Rosenthal
on Market-Rate Housing

Jones Lang LaSalle Experts on
Retail Issues

Marc Heisterkamp on Sustainability

J.C. Goldenstein on the Internet and
Social Media

Robert Mandelbaum on Hospitality Trends

James Breitenstein on Single-Family Rentals
and More!

Are you an expert with something to share?

Contact Suzann Silverman, Editorial Director, at ssilverman@cpexecutive.com to inquire about opportunities for a regular blog spot.

Join the discussion ...