

Controlling Property Taxes Paves Way for Economic Sustainability

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Like many resurging cities in the United States, Cleveland is enjoying strong demand for downtown living. The high costs of converting existing properties to residential use had made it economically infeasible to develop downtown, however. Despite healthy demand, the downtown submarket lacked profit potential for developers.

In order to offset the cash flow deficit confronting developers, city leaders in Cleveland instituted an abatement program to control property taxes. In doing so, the city successfully enabled new investment downtown, not only improving the residential market, but also strengthening the office and retail markets, helping the overall downtown community to blossom.

So what lesson does Cleveland's downtown experiment offer? The takeaway is that reining in property taxes is a catalyst for economic growth and sustainability.

Granted, not all taxpayers benefit from abatement programs like the one instituted in Cleveland. All taxpayers still need to control their taxes, however. This rings especially true in Ohio and Pennsylvania, which are the only states in the country that permit local school districts to file tax increase complaints.

Costly complaints

While being singled out by a school district for a tax increase is bad enough, it proves even worse for property owners in Northeast Ohio because of the region's excessive tax rate. For comparison, much of the country has a 1% to 2% tax rate, whereas Cuyahoga County boasts an average tax rate of approximately 3.39% of market value, with the highest tax rate being more than 5.79%. To properly contain taxes, it is therefore vital for all taxpayers to be on guard and ready to defend their properties when a school district files an increase complaint.

Taxpayers should be aware, however, that defending against a tax increase complaint is more complex than it seems.

School boards often hire attorneys who aggressively seek out specific properties they believe to be under-assessed. Upon filing complaints on these properties, the attorneys will then conduct an investigation, attend the hearings, and even subpoena financial institutions in order to obtain existing appraisals. Therefore, when school boards pursue a tax increase, taxpayers must be prepared and determined to respond accordingly.

A recent sale is the red flag that indicates to a school board that a property

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is ripe for an increase complaint. School board attorneys will often argue that a recent sale of a property is the best evidence of that property's value. However, a sale price commonly differs from the value that should be used for taxes.

In recognition of these differences, the Ohio legislature recently amended its statutes to allow auditors to exercise their own discretion in deciding whether to assign the sale price as value. Auditors "may" use the sale if the sale reflects the "fee simple as if unencumbered value," according to the statutory language. That means an assessor must strip away non-taxable components before a sales price becomes a useful indicator of market value.

For instance, in addition to buying real estate, hotel buyers are often purchasing in-place contracts, existing work forces, personal property, reservation systems,

the reputation of food and beverage providers, and other intangible items associated with a hotel business. As a result, the sale price of a hotel tends to reflect more than the actual value of the bricks and sticks.

Additional non-real estate items that often factor into a sale price include the length of lease terms and the value attributable to the credit-worthiness of tenants. Thus, for assessment purposes, taxpayers must take measures to ensure these non-real estate items are removed from a sale price before that value is used in a tax calculation. Controlling taxes requires not only defending against increase suits; taxpayers must also take the initiative in monitoring their property assessments. When roles are reversed and property value is over-assessed, taxpayers should be diligent in contesting their taxes to make sure they are only paying their fair share.

Failure to maintain fair taxation may not only result in a diminished return on investment, but may even drive a property into disrepair due to insufficient cash flow. On the other hand, maintaining fair taxation affords a property its greatest chance at economic sustainability, and creates the greatest growth opportunity for the taxpayer.

The time for filing a complaint is limited. Tax complaints must be filed in Ohio no later than March 31, 2016, in order to challenge a 2015 tax bill. **P**

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