Hotel News Resource

[Reducing Excessive Hotel Property Taxes - By Stewart L. Mandell, Esq. and Michael B. Shapiro, Esq.]
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Property taxes usually comprise one of the largest single expense items on any hotel owner’s P & L. With so much at stake, it becomes critical for owners to understand those issues that allow them to successfully protest excessive property taxes. This article provides an overview of those issues.

The process of reducing property taxes works on the government’s timetable, not one the taxpayer sets. Every jurisdiction establishes strict procedures for appealing property tax assessments. One missed step in the process can prohibit an appeal to the next level. For example, if an owner fails to protest an assessment at the local review board, many states prohibit an appeal to the state tax court or board. Most of these local review boards meet very soon after annual assessment notices are sent to taxpayers. This allows the hotel owner very little time to decide whether to file an appeal. However, failure to act timely can leave the owner with no appeal options.

Knowing the deadlines for filing appeals is essential to preserving appeal rights. In some jurisdictions, meeting with assessing authorities very early, even before the deadline for appeal, may be beneficial. Experienced property tax counsel can provide guidance as to the best strategy for obtaining a successful outcome based on a property’s situation and the particular jurisdiction involved.

Where no basis exists for property tax exemption, do not relent. Instead, determine whether the government’s valuation of the property falls in line with other similar properties and with the applicable value standard, usually a fair market value standard (although sometimes labeled fair value, cash value, true value or usual selling price).

In most jurisdictions, a hotel assessed at a higher valuation than other similar properties may bear a very heavy burden of proof in a tax appeal. Such proof requires evidence far more than just comparing the hotel’s per room assessment to the assessments of one or two others in the jurisdiction. Before undertaking an appeal based on uniformity or equal protection requirements, owners should consult with their property tax representative for guidance regarding the relative benefits and costs of pursuing this type of appeal.

While assessment reductions based on a property’s value are often more simple to achieve than a uniformity appeal, valuation appeals still involve a myriad of issues. Those issues can involve the cost approach to value, which can be especially important to assessing officials where construction is recent, as well as the sales comparison approach. Of course, the income approach is usually the most significant indicator of value for a hotel. Unlike some properties leased on a net-basis, where the property’s stabilized net income is obvious and capitalization rates are well known, using the income approach to value a hotel is much more complicated because of the many variables that impact a hotel’s value. The following points illustrate a few of the most significant variables facing hotel owners in a valuation appeal where the income approach to value is the crux of the dispute:

œ In calculating the value of a hotel, the primary drivers are expected occupancy and average daily room rates. Other factors include expenses, and as detailed below, capitalization rates. Furthermore, calculating expected income and expenses requires considering the operating experience of the property as well as analyzing data from other hotel properties.

œ Whether basing an income approach to value on a single- year stabilized income or discounted cash flow analysis, the valuation must take into account a market based capitalization rate. The selection of a proper direct capitalization rate or discount rate involves several considerations. For example, the type of hotel property involved, its location, and if available, the capitalization rates for this type of hotel property in a comparable geographic area, as well as the economic performance of the hotel, including its performance relative to other similar hotel properties.

œ Even after calculating the value for the entire business enterprise, the value of personal property and intangible assets have to be subtracted in order to derive the value of the real property. Many states have exempted from taxation tangible personal property found at hotels. In states that tax hotel tangible personal property, other issues may exist, such as whether the hotel has over-reported tangible personal property, and whether the tax authority has accurately accounted for obsolescence.

œ Last, but not least, hotels need to subtract the value of intangible assets from their business enterprise value. Some intangible assets, such as liquor licenses, rarely encounter controversy regarding their value. Others, such as the value of a franchise, often become the subject of a dispute with the assessor. Many taxing jurisdictions fail to recognize two key issues: 1) that the business enterprise value of a hotel includes the value of intangible assets and 2) that the value of all intangible assets must be deducted from the enterprise value to reach a valuation of the real and tangible personal property.

Unfortunately, unless taxpayers take action, many taxing jurisdictions will collect and retain property taxes based on unlawful, excessive valuations. Now for the good news: when unlawfully excessive valuations are imposed and appeals timely filed, tax savings are often achieved. Of course, the odds of a successful outcome increase with the sophistication, knowledge, and ability of those involved in the property tax appeal.

About the Authors

Stewart Mandell and Michael Shapiro are partners in the Detroit headquartered law firm of Honigman Miller Schwartz and Cohn LLP, the Michigan member of American Property Tax Counsel (APTC), the national affiliation of property tax attorneys. Stewart Mandell can be reached at slmandell@honigman.com and Micheal Shapiro can be reached at

mshapiro@honigman.com.