

Equal and Uniform Arguments Reduce Hotel Taxes - By Jim Popp, Esq.

2007-08-02

The strong hotel market has resulted in a significant number of hotel sales at levels much higher than in recent memory. These high sales prices dramatically affected property tax officials, encouraging them to raise hotel assessments to ever increasing levels.

Of course, the sales price of these properties result from a combination of real estate, personal property and business intangibles values. Knowledgeable owners, appraisers and property tax lawyers and even some tax officials understand that these sales prices do not represent market value for property tax purposes. However, tax officials often give in to the pressure of high sales prices and arguments relating to real estate market value fall on deaf ears.

Sales Activity Inflates Property Tax Values

Several factors account for tax officials' willingness and need to allow sales prices to impact them (commonly known as sales chasing). The first is that all hotel properties are judged by the sales of a few properties. The sales approach has become a fundamental basis of property valuation; however, it must be used with caution when applied to a complicated hotel property that includes several property value components. The phenomenon of the many judged by the few results in hotel properties tending to be valued at greater than market. The second factor relates to tax officials tendency to single out sold properties, causing them to be saddled with assessments higher than their competitors.

Taxpayers often experience difficulty addressing either of these problems directly using solely a market approach to property valuation. Overall this means recent sales activity tends to inflate property tax values.

Remedying the Impact of Sales Prices

Several states with more taxpayer friendly systems addressed sales price chasing by passing remedial legislation that focuses on the equality of property tax valuation. Many state constitutions include language calling for equal and uniform property tax valuation. Unfortunately, only a few states actually have a statutory remedy to implement this goal.

Texas for example enacted such a remedy. The legislation enables Texas taxpayers to challenge a tax valuation based on the traditional tax value in excess of market value. More importantly, they may also challenge based on the contention that the property is unequally appraised. Specifically, the statute provides that a property shall be valued for property taxes based upon the median level of appraisal of a reasonable number of properties appropriately adjusted. The appropriate adjustments are made to account for physical differences between the properties. The application of this remedy may produce a dramatic effect on property taxes.

For example, a hotel property recently sold in the range of \$60 million. The tax official, in recognition of business value, appraised the property for tax purposes at approximately \$50 million. This may have been some indication of the real estate's market value. The difficulty for the taxpayer came about because a competitive set of hotel properties were valued on a per key basis or per square foot basis at less than half of his property. The application of an equality remedy generated a 50% reduction in tax value, down to \$25 million, which was comparable to the competition.

Testing for Tax Equality

Several tests of equality exist, which may prove useful to hotel owners in presenting their case for property tax reduction:

1. The most basic test compares the per key value of the hotel with comparable properties in its competitive set. Tax authorities generally understand this approach. It makes sense, for example, that adjacent limited service properties that have similar physical characteristics should be valued on the same per room basis.
2. The next test compares the tax value of the property on a per square foot value allocated among the components of the property. The square footage attributable to rooms, banquet and restaurant facilities, health club and spa and parking facilities is determined. The purpose here is to measure and compare the economic impact of various profit centers. For example, if two properties have an equal room square footage but one has a significantly larger banquet facility, the property with the larger banquet facility will be more valuable. The tax authority inclination to focus on per room values ignores this reality.
3. Another very useful test is the ratio of taxable value to room revenue. Since many tax officials value property on an income approach using uniform deductions for business value across flags, this allows comparison of the property to the competitive set based on income. It should be noted, however, that this comparison does little to address the effect of flag affiliation on revenue.

These tests have proven effective in states with a specific equality remedy and often are at least considered in states without such a remedy.

Conclusion

The comparison of tax values on an equality basis is a very effective remedy. It addresses the practice of sales chasing. It holds in check the propensity to use high sales prices to raise property taxes across the entire market. It offers an understandable alternative to a purely excess market value argument. If your state has such a remedy, use it. If it does not have such a remedy, a legislative effort to obtain one will prove beneficial.

Jim Popp is a partner with the Austin, Texas law firm of Popp, Gray & Hutcheson. The firm devotes its practice to the representation of taxpayers in property tax disputes and is the Texas member of the American Property Tax Counsel (APTC), the national affiliation of property tax attorneys. Mr. Popp can be reached at popp@property-tax.com.

This article comes from Hotel News Resource

<http://www.hotelnewsresource.com>

The URL for this story is:

<http://www.hotelnewsresource.com/article28666.html>

© 1998 - 2007 Nevistas and the author.

Brought to you by Hotel News Resource

Distribute your news on our Network

See what all the buzz is about at:

http://www.hotelnewsresource.com/Info-news_account_info.html