

How to Pursue Property Tax Fairness - By Jim Popp, Esq.

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As everyone knows, property taxes are a major expense in the operation of a hotel. In addition to a desire to reduce and control property taxes, hotel owners frequently make two comments, 'just treat me fairly and give me predictability in the process.'

Hotel owners can exercise some control and influence over fairness of property taxes. The ultimate fairness and predictability of the system originates with the legislature of each state. Thus, hotel owners should consider becoming actively involved in the legislative process. A fair property tax system does not just happen, it is the result of planning, foresight and effort. The development of a fairer property system begins with a review of some key elements the must be included in the system:

1. Property should be valued based upon a uniform recognizable standard such as market value. However, equally important, there must be an overall review process to ascertain whether properties across the jurisdiction are all valued based on the same standard.
2. There should be a clear understanding of the separation between the property valuation process and the tax rate adoption process. Owners do not exhibit as much concern about rising property tax valuations as they do about rising property taxes. Thus, owners should develop an understanding of the tax rate adoption process. They need to determine potential changes that may be required in truth in taxation provisions and tax rate limitations provisions. These provisions assist in maintaining the predictability of the tax.
3. The system should allow a taxpayer a reasonable opportunity to challenge a property tax valuation and the opportunity to prevail in that challenge, if supported by the merits.
4. Finally, a fair system allows a taxpayer the opportunity to win on an equal and uniform claim. For example, an owner purchases a hotel for \$50,000 per key, resulting in a \$50,000 per key tax value, but competitive properties are at a \$35,000 per key tax value. One of the most taxpayer-friendly remedies in a 'market value' state allows a comparison of the tax value of the owner's property to the tax value of comparable properties. In the example above, even though the market value of the owner's property is \$50,000 per key, the property would be reduced to \$35,000 per key were it subject to taxation on an equal and uniform basis.

Basic legislative language for an equal and uniform provision might appear as follows:

A property is appraised unequally if the appraised value of the property exceeds the median appraised value of a reasonable number of comparable properties appropriately adjusted.

Within the context of this provision, there are several measures of equality among hotel properties that may prove useful for achieving fairness and certainty.

The most basic approach compares the per key value of the owner's property with the comparable properties of the competitive set. The tax authorities generally understand this basic approach. It makes sense to them, for example, that side-by-side limited service hotels should be valued on the same per room basis

The next approach compares the tax value of the owner's property with competitive properties on a per square foot value allocated among the components of the property. This allows some comparison of value among the real estate attributable to rooms, banquet and restaurant facilities, health club and spa and parking facilities.

Another very useful measure 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 owner's property to the competitive set based on income. Please note, however, that this comparison does little to address the effect of flag affiliation on revenue.

If fairness and predictability are not hallmarks of your jurisdiction's property tax system, it's time for the hotel community to become involved with state legislature. An active involvement with your legislators can have dramatic results.

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