

## METRO FOCUS | CLEVELAND

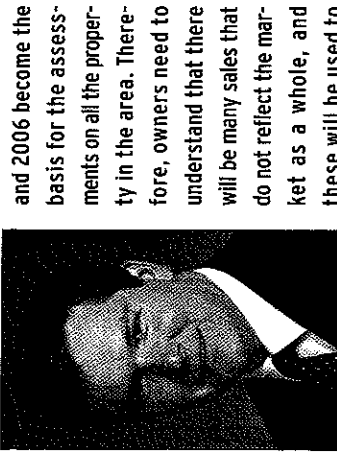
## How to reduce property taxes

Study the alternatives and be ready to act quickly

By J. Kieran Jennings

Right now the Cleveland real estate market presents a "mixed bag" of properties, some suffering from high vacancies, others being successful in finding new and retaining current tenants. The past year has seen new developments proposed and the acquisition of several high profile office buildings. The purchases were also a mixture of unusual deals. Public assistance provided the key to several acquisitions, while others were tenant-in-common (TIC) investments.

Such purchase and sale activity is notable due the fact that this summer and fall Cuyahoga County will begin performing its sexennial physical reappraisal, establishing the property tax assessments for 2006. This year's tax assessments affect the 2006-08 tax years and act as the base for statistically adjusting the 2009-11 assessments. In short, the values established now affect the next six years of real estate taxes in the Greater Cleveland area. The sales activity taking place in the real estate market during 2005



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Owners looking to attract and keep tenants must keep costs down. Many properties pass certain expenses on to tenants, including real estate taxes. By keeping real estate taxes in check owners can offer a more competitive overall rental package. Those who keep a sharp eye on property tax issues

and 2006 become the basis for the assessments on all the property in the area. Therefore, owners need to understand that there will be many sales that do not reflect the market as a whole, and these will be used to determine assessments for the next six years.

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may enjoy some property tax relief in 2006. Traditionally, real estate was assessed based on its fair market value. That fair market value was calculated by using market rents, vacancies and market expenses to indicate the income produced by the property. In the past year, several decisions from the Ohio Supreme Court appear to permit owners to look to the actual (contract) rent that the property generates rather than relying on the rents of competitors (market rent) as the indicator of income.

Taxpayers with long term leases that fall below market should determine whether they can minimize their tax burden. Taxpayers having with below market leases in the past were unable to aggressively contest their tax burden because the law mandated that market rents be used to establish assessments. On the other hand, owner-occupied properties that generate no net income attributable to the real estate can still benefit from current market data by using current market rental rates, vacancies, and expenses to lower their tax assessment.

As the current law progressed, it created a level of potentially inconsistent assessments. To illustrate the problem, let's assume that two identical neighboring properties exist, one owner-occupied and the other

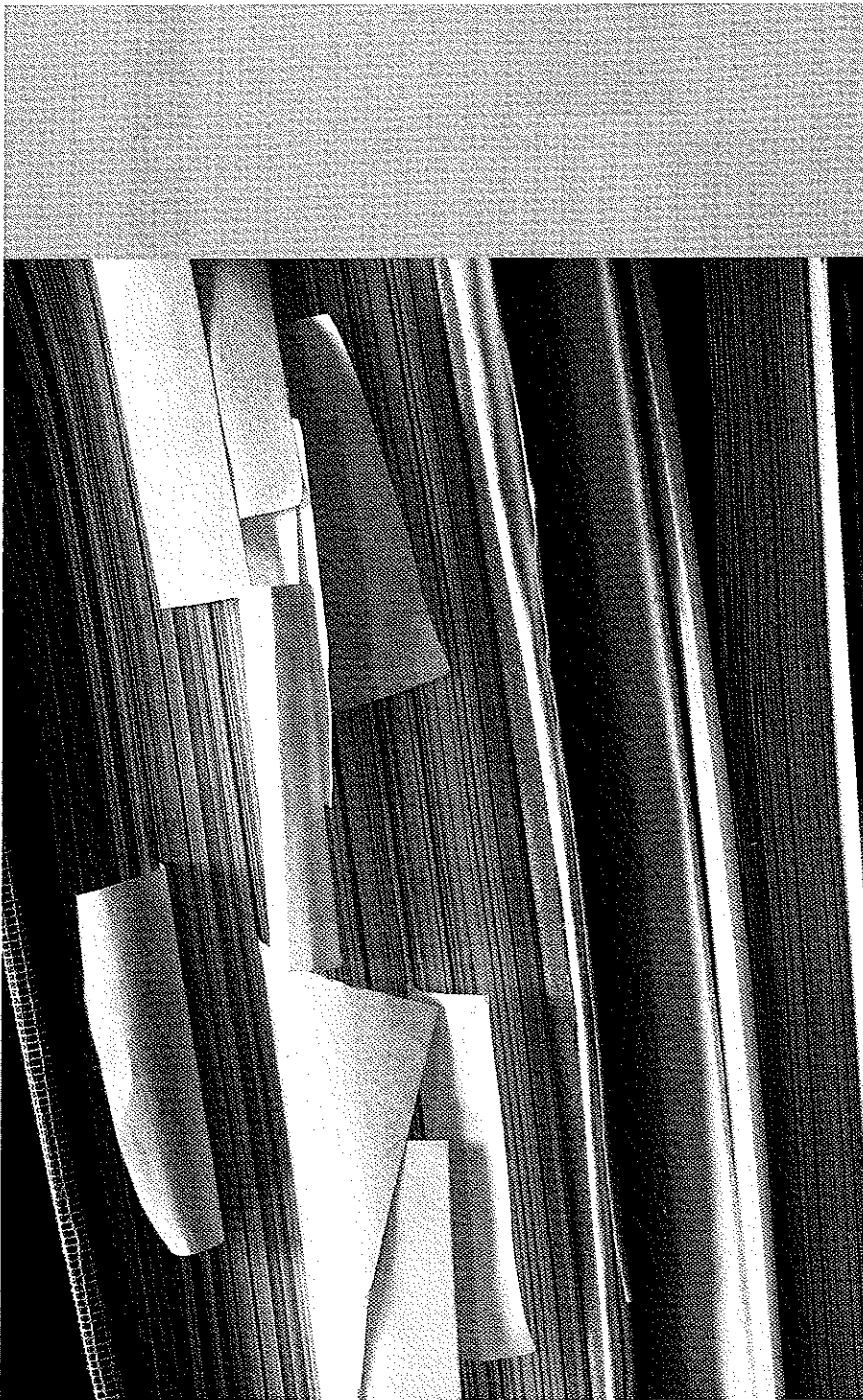
with a 20-year-old, long-term lease, which is now below market. The property with the below market lease could end up having a tax burden substantially below that of the identical neighboring property whose assessment is based on current market conditions. Given that, generally, the law does not tolerate such inconsistencies, it may be beneficial for those taxpayers with a below market lease to take advantage of the current situation.

Taxpayers are not the only ones that keep a close eye on assessments; boards of education, one of the main recipients of owners' tax dollars, also vigilantly watch tax assessment. As a result, under-assessed property often finds itself defending against a board of education complaint aimed at increasing the assessment. Prior to engaging in any correspondence with a board of education seeking to increase an owner's taxes, consult with a real estate tax professional.

Owners thinking of filing a complaint regarding their property tax assessment in Cleveland should consider the following facts:

Generally, the boards of revision will accept complaints after January 1, but in any event, complaints must be filed (received not mailed) with the county

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plaint carries risks. Before filing, ensure that the property is, in fact, over-assessed as of the tax lien date. If it is actually under assessed, the Board of Revision (BOR) may increase the assessment rather than decrease it.

■ Owners may need a lawyer to file the complaint. The Ohio Supreme Court, in *Sharon Village Ltd. v. Licking County Board of Revision*, ruled that the preparation and filing of a complaint constitutes the practice of law. Accordingly, an attorney must prepare and file the complaint unless the property is legally titled in the name of the individual filing the complaint. In response to this case, the Ohio legislature passed a law allowing non-attorney's to file complaints in certain situations. However, a series of cases have, for all practical purposes, nullified the law permitting non-attorneys to file complaints. Therefore, in order to avoid the risk of having a case dismissed and losing the right to contest the taxes for a three-year period, it is advisable to consult an attorney.

To be forewarned is to be forearmed. When Cleveland issues property tax assessments, carefully analyze the available alternatives and act with all due speed.

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board of revision by the March 31, 2007 deadline. However, during the reappraisal period the county often permits informal meetings to assist in establishing values.

■ Prior to filing a complaint, owners must determine the auditor's estimate of the property's value.

The property tax assessment notice provides a tentative market value. The final "assessed" value appears on the tax bill. If that value is not expressed as a market value, simply divide the assessed value shown on the tax bill by 35 percent to arrive at the auditor's opinion of the property's fair market value.

■ If an owner believes that the fair market value of his property as of the tax lien date, January 1, 2006, is less than the assessed value, the property may actually be over-assessed. In such a case, filing a complaint to reduce the amount of property taxes may be appropriate. However, filing a com-

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