

Reassessing the situation

Commercial property owners may need to re-evaluate their recent tax reassessment.

By Abby Cymerman

If you own commercial property, paying taxes is inevitable, but how much you pay is sometimes up for discussion.

Commercial property owners in Cuyahoga, Lake, Lorain, Portage and Stark counties received in December a triennial update of property reassessment. Every six years, Cuyahoga County does appraisals — the last one was in 2000 — and reassessments are done every three years.

Kieran Jennings, partner with Siegel, Siegel, Johnson & Jennings LPA, says the fundamentals surrounding real estate value (net operating income, occupancy and other key financial factors) have declined since peaking in 2000. By increasing assessments established in 2000, the county may be overassessing taxpayers in a declining market.

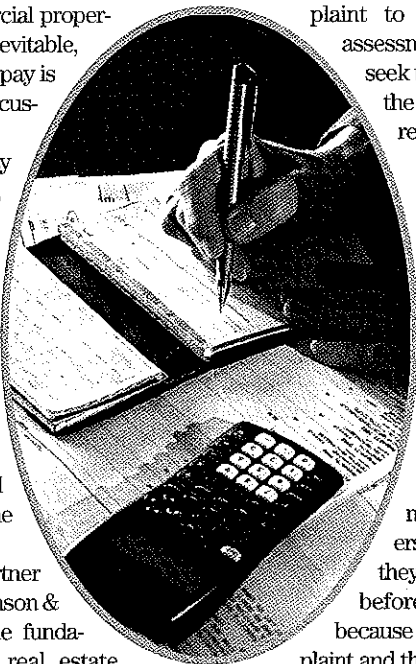
"I can't imagine the county ever decreasing their tax base on an overall reappraisal. The fact that they only raised it a few percentage points lets us know, and the counties also know, that there has been basically no appreciation in the market for 2003 in Cuyahoga County," Jennings says.

And with a slowing in commercial property market values, he suspects many owners could be overassessed in this year's tax bill.

If commercial property owners believe their assessments are too high, they have the option of filing a complaint with their county's Board of Revisions. The deadline is March 31, after which an owner forfeits the right to appeal for 2003.

Once the complaint is accepted, commercial property owners must produce evidence that the assessment is incorrect and proof of the property's actual value.

The property owner is not the only one who can dispute a valuation. In Cuyahoga County, it is almost a given that the local board of education will file a counter com-



plaint to protect the current assessment, and may even seek to increase the value of the property after further review.

"Three months from now, you might get a letter from the Board of Revisions saying the board of education has filed a complaint against your valuation, and you're going to need to defend that," Jennings says.

Jennings says commercial property owners should know whether they are truly overassessed before filing a complaint, because "once you file the complaint and the board files the countercomplaint, you would need the board to withdraw their complaint for you to actually back out of the case."

Decisions can be appealed to the Board of Tax Appeals in Columbus, but it could take years for the dispute to be resolved.

Owners need to be aware of the value of their real estate. Some believe valuations will naturally go up with each new assessment, but that's not always the case.

"It's not true that property — commercial property especially — always increases over time," Jennings says. "Industrial property quite often can decrease over time. There's a lot of obsolescence in older building."

If commercial property owners have reassessment questions, Jennings suggests they consult a qualified appraiser or property tax attorney who can look at the reassessment from an unemotional, third-party perspective.

"The reason you want to hire someone like that is that when all is said and done, you need someone not only who can tell you what the value of the property is, but who can testify, and the two do not always meet," Jennings says. **HOW TO REACH:** Siegel, Siegel, Johnson & Jennings LPA, (216) 763-1004 or www.siegeltax.com; Cuyahoga County Auditor's Office, (216) 443-7010 or auditor.cuyahoga.oh.us/auditor/rep/default.asp

Legal motions

Commercial property owners in Cuyahoga, Lake, Lorain, Portage and Stark counties have until March 31 to file a reassessment complaint with their county's Board of Revision. But Kieran Jennings, partner with Siegel, Siegel, Johnson & Jennings LPA, warns that the complaint form is "riddled with technical pitfalls."

Improperly filed complaints are thrown out, and property owners are not permitted to refile within the three-year period of the assessment unless the property was sold, there was a casualty loss, there was a 15 percent change in occupancy or there was substantial improvement to the property.

"If you file it on time but fail to do it properly, not only do you lose the ability to contest for the year that you filed and got dismissed on, but you can't file for 2004 or 2005. It's a serious thing to screw up a complaint," Jennings says.

Some common mistakes to avoid:

■ **Using the wrong filing name.** In a 1999 case, a company with the legal name Burger King Corp., Buckeye Superior/Euclid Inc., filed only as Buckeye Foods Inc. The complaint was thrown out because there was no entity named Buckeye Foods.

■ **Filing the complaint if you're not an attorney.** The *Sharon Village Ltd. v. Licking County Board of Revision* case of 1997 determined that filing a complaint is a practice of law. "Your president can't sign this form. The attorney's going to sign it," Jennings says. "If you don't do that, it will get thrown out as jurisdictionally defective."

Jennings warns not to misjudge the complexity of the form. It appears simple to fill out, but any mistake will render it void.