

Landmark Case Cuts Property Taxes in Half

—By J. Kieran Jennings • Siegel, Siegel, Johnson & Jennings

How do you get the real property tax assessment on a prominent Marriott hotel reduced from \$7,200,000 to \$4,200,000? In a landmark case, the Tennessee State Board of Tax Appeals has led the country in establishing a proper methodology to separate non-real estate items from the assessment of hotel properties.

Ohio law mandates that real property assessments must be based upon the market value of the real estate, which courts have traditionally interpreted to be the purchase price negotiated between an unrelated buyer and seller. As a result, assessments are often based on recent sales in the market place. Hotels present a distinct problem because they typically sell as

an ongoing business, complete with non-real estate items such as personal property, inventory, flag affiliation and an assembled workforce. Because of this, hotel properties are erroneously taxed on both their real estate and non-real estate assets.

The Ohio Supreme Court has ruled that non-real estate items are not to be included in assessments. The Court held that, for the purposes of assessment, a business and the real estate that it operates on must be kept separate. Specifically, in the case of nursing home and assisted living properties, the Court determined that income and expenses derived from business operations must be isolated and removed before assessing those properties. The Court did not,

however, give any guidance on how to accomplish this separation.

Both the Tennessee State Board of Equalization and the Appraisal Institute, the governing body for the appraisal industry, have now provided guidance to Ohio and the rest of the country. In *Essex House Condo Corporation a/k/a Marriot Courtyard Airport v. Shelby County*, the Board agreed with the Appraisal Institute recognized method of removing income that is attributable to the return of, and the return on, the investment in non-real estate items.

Non-real estate items can be separated by determining the present value of their amortized costs.

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The FAQ on BWC Group Rating Programs

With the end of the BWC's 75 percent dividend credits, group rating remains a company's best option to save significantly on workers' compensation premiums. Group rating offers up to 95 percent savings by enabling companies to join a program through the Ohio Hotel & Lodging Association.

Q. What is Workers' Compensation Group Rating?

A. Group Rating permits employers in similar industries to "group" their workers' comp claims experiences for rating purposes. By pooling companies with good claims experience, the group can obtain up to a 95 percent discount on premiums.

Q. How is the coverage provided under a Workers' Compensation Group Rating Program?

A. Coverage is still provided by the Ohio Bureau of Workers' Compensation (BWC). Each member still maintains their own policy number and payments are still made to the BWC. The group rating discount will be applied directly to the employer's BWC premium bill.

Q. Can you only enroll once a year and is this true of all groups?

A. Yes, the BWC regulations dictate this. Applications are collected throughout the summer with actual enrollment taking place in February. Compensation Consultants Inc. (CCI), the Ohio Hotel & Lodging Association's group rating program administrator, is currently accepting applications for the BWC policy year July 1, 2004 to June 30, 2005.

Q. Is there a cost to participate in the program?

A. Each member is charged a participation fee to be in the program and for workers' compensation cost control services. Details of the administrative fee and any initial set-up fee will be provided when a proposal is requested from CCI. Also, you must become a paid member of OH&LA.

Q. Can the BWC reject a company from participating in a group rating program?

A. Yes. The BWC has qualification requirements which companies must meet to enroll in a group rating program.

Q. Can I enroll in more than one group rating program?

A. No. The BWC does not permit a company to belong to more than one Workers' Compensation Group Rating Program.

Q. If I am uncertain whether my company would qualify for the plan, should I apply?

A. Yes, each year the BWC assigns new rates based on an employer's payroll and experience. A company who did not previously qualify due to a penalty rating may qualify if their experience improved.

Contact CCI at 800-837-3200 or visit www.cciworkerscomp.com to begin a free, no obligation analysis of you potential premium savings with the OH&LA Workers' Compensation Group Rating Program. **The deadline to apply is December 29, 2003.** 🌿

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Amortizing the costs of non-real estate items creates a stream of income that can then be removed from the overall going concern. Because the income derived from non-real estate items includes a return on the investment as well as a return of the investment, the impact on assessments is greater than the actual cost of the items.

For instance, as shown below, the removal of the income stream associated with a \$500,000 investment in FF&E results in a \$671,022 reduction in assessment.

	Annual
Interest Rate (Mortgage rate + 200 Basis Point)	7.69
Amortization period	8 years
Cost of FF&E	\$500,000
Annual return "of and on" (principal & interest) FF&E	\$83,877.76
Capitalized Value of annual income flow attributed to FF&E	\$671,022.04

In addition to approving the removal of income attributable to personal property, the Tennessee Board approved the removal of income associated with both the value of start-up costs and the value of market penetration associated with the premium for better-run properties.

It is important to note that this methodology is not the only one used by appraisers. It is, however, the first time that any state has approved a method of separating non-real estate items from the assessment of hotel properties.

Given that the economy and the hotel industry have not yet rebounded, there may be no better time to challenge hotel assessments. It is important that owners and operators of hotels examine their assessments to determine whether they are being assessed for the non-real estate items associated with their business. 🌿