



More Appealing/ Less Taxing:

Take Action to Lower Your Hotel's Property Taxes

How do you know if you're paying too much in property taxes for your hotel or motel? According to attorney Judy Engel, the tongue-in-cheek answer is that you know simply because it's a hotel.

Engel asserts that property values in many areas may have decreased by as much as 25-40 percent and warns operators that their property tax assessments for the coming year are likely to be overvalued. "Chances are, you have a case for lowering your taxes for this year," says Engel, who is a shareholder in the Property Tax Appeals and Group at Fredrikson & Byron, Minneapolis. "It's worth looking at for everyone.

Property taxes in Minnesota are based on the value of the real property and in recent years, property values in the lodging industry have decreased significantly. According to the 2009 Hotel Valuation Index published by consulting firm Hotel Valuation Services this fall, hotel values in the Minneapolis/metro area peaked in 2006 and have been declining ever since. HVS projected a 32.08 percent decline in 2009 from the peak three years ago.

Minnesota property taxes are paid in arrears, which means they are always paid backward in time. The property tax bill that you receive in the next month or two for payment in 2010 is based on your property's valuation from last January, 2009.

According to Engel, the huge difference between 2008 and 2009 is that capitalization rates have skyrocketed, up to 160 basis points. "That's huge," says Engel. The higher

the capitalization rate, the lower your property value.

As an example, Engel offered the following illustration. If a property's net income for the year was \$300,000 and you divide that by a capitalization rate of seven percent, you are looking at a property value of \$4.3 million. However, if you calculate by a capitalization rate of 8.5 percent instead, the property value drops significantly to \$3.5 million.

Capitalization rates are a factor in the primary method of determining the value of a lodging property, which is the income approach method. The rates do vary based on the type of property, with smaller budget hotels typically being a bit higher...currently as high as 13 percent compared with a luxury hotel, which might be closer to a rate of 10.5 or 11 percent.

Generally speaking, operators should see their assessed property values decrease even if business has remained at the same level as the previous year. It's more likely, however, that business is down, given the challenging economy that plagued travel, tourism and convention business through all of 2009. Both factors offer hotel and motel operators substantial reason to question their valuation this year.

How to Contest A Valuation

Business owners have until April 30 to contest a tax assessment. Engel notes that it might be helpful to have 2009 accounting fully complete so that profit & loss figures are accurately reflected, but she also encourages lodging

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operators to take action as soon as possible. "Procrastinators may not find available assistance if they wait until close to the April 30 deadline," Engel says.

If you believe your tax assessment is too high, you have several available courses of action. Some business owners head to the county assessor to protest. "There's no harm in going to the assessor," says Engel, "but my experience leads me to say it's probably a waste of time.

If the county assessor does not agree to lower the valuation, you may appeal to an assessment review board. Engel notes, however, that "counties are resistant to make changes...and if they do, they are usually smaller adjustments than they should be. The county is interested in maintaining its tax base." Legal representation is usually not required when coming before the county board of appeals.

Instead of contesting at the county level, Engel recommends business owners file an appeal with the Minnesota Tax Court, where it will be tried as a court case in Tax Court. According to Engel, that's the point when you need legal representation because hearings are conducted under the same rules as other state courts. Judges issue decisions based on generally accepted appraisal methodologies, state statutes and case law.

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JUDY ENGEL
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The downside of the court system is the lengthy amount of time it can take to complete. Because of backlogs in assessors' offices and in the court itself, it often takes more than a year to be resolved. During that time, you must continue to pay property taxes as assessed, but if judgment is found in your favor, you will not only reduce your value, but also be entitled to a refund of the taxes you overpaid, plus interest.

Closing Thoughts

If the assessment that arrives in your mailbox at the end of 2009 shows the county has already reduced the tax, should you assume there's no action yet to take? Absolutely not, says Engel.

She says that if the county had already reduced values, it would have simply done so through a mass appraisal process, not looking at the individual hotel or motel. "The county is going to err on the side of caution," Engel adds, "because reducing the value reduces the amount of tax money it receives.

Engel emphasizes that no lawyer can help you simply lower your tax rate because tax rates are based on governmental issues. The issue at hand is the valuation and the best defense is to have the lowest value possible assessed on your property. Engel says her company, like most other law firms, will perform a cost-free analysis to tell you if you have a good case for contesting your property's value.

Judy Engel is a cum laude graduate of the University of Minnesota Law School and was admitted to the Minnesota bar in 1996. In her property tax appeals practice, Judy is experienced in the negotiation and trial of cases involving commercial property valuation, equalization and exemption issues with a focus on hotels, restaurants, office buildings, department stores, shopping centers and apartments.



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