



Each property is unique in its response to market and policy changes

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As different facets of the real estate market improve, I am often presented with the question of what impact these market changes will have on a client's property tax case. Many owners express concern that, while some of the premium class A buildings now command close to pre-recession prices, less desirable class A and class B space have continued to suffer. Consequently, while premium class A properties benefit from an improving economic situation, property owners fear that those premium properties will skew market data so greatly that properties yet to rebound from the recession will shoulder higher tax burdens.

The reality is that for every premium class A REIT purchase, there are distressed properties that are not selling, thus artificially inflating the median sale price. Sales of comparable properties provide a valuable insight into the market from a macro perspective; however, property tax proceedings take a more detailed approach, examining the unique circumstances of each building.

Just as rents in a building can vary significantly from floor to floor or endcap to middle of a strip, so too can values of comparable buildings. Even similarly sized buildings situated less than one block from each other can yield far ranging values depending on factors such as visibility, parking, amenities, and accessibility. Given the volatility of the current market, the value of an existing long-term lease with a credit worthy tenant can alone have a greater impact than these traditional factors.

Therefore, in comparing a premium class A property sale, the distinctions that separate it from a building that is still weathering the economic downturn must be clearly identified when presenting one's property tax case.

The other question I'm frequently confronted with is how the newly instituted property tax cap will fare in its first full year of implementation. The tax cap, signed into law by Governor Cuomo last year, was heralded as a great achievement in the effort to curtail property taxes in a state that regrettably boasts some of the highest in the nation. As I've previously outlined in this space, the Governor's cap is not a strict 2% limitation, but rather a budgetary cap with exceptions that allow for a significantly higher effective cap.

The cap can be overridden by a supermajority vote. Sixty percent of voters in a school district would have to approve going above the cap. In municipalities, sixty percent of the governing body must vote to exceed the cap. Overriding the cap, a provision originally envisioned as a safeguard against instances where implementation would be particularly onerous, is now being employed with frequent regularity as cash-strapped municipalities search for revenue streams. The override has become so commonly used that news readers are more likely to read "override" in a tax cap headline than the Governor's name.

Many jurisdictions are overriding the cap as revenue simply will not exceed costs with only a 2%

increase. Even the costs associated defending property tax cases have to be budgeted for each year. In areas such as Westchester County and now Nassau County, school districts have become responsible for their own tax refunds and must decide if they will spend attorney and expert fees in reviewing each case. Whereas Suffolk County must address the 2% cap while experiencing their worst deficit in 20 years. With items such as sales tax revenue no longer increasing at a consistent pace, property taxes are forced to make up the difference.

Proponents tout the cap as a success even in those areas where it's been overridden, explaining that the vote to exceed the cap is a conscious decision made with accountability rather than past practice of routine increases in excess of 2%. Accordingly, the real-life implementation of the cap should give property owners pause, particularly since proper planning for property tax increases is difficult when the tax cap may or may not apply. However, while these changes will have an effect, ultimately, it is the factors unique to a property that will truly drive its property tax case.

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