



Tax certiorari in the Age of COVID-19; Understanding your right to a fair tax assessment - by Richard Cronin

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The COVID-19 pandemic abruptly and profoundly turned the world upside down and has largely reshaped our day-to-day experiences, both personally and professionally. Phrases such as “social distancing” and “flatten the curve,” first heard a few short months ago, are now everyday vernacular and are indeed part of the “new normal.” The tax certiorari practice has adapted and continues to evolve in new ways in order to protect taxpayers.

As we now begin to wade through and ascertain the economic side-

effects of the pandemic, we learn that many of these challenges are likely here to stay with us for the foreseeable future. One of the things all property owners need to do during these unprecedented times is protect themselves from over-paying their real estate taxes. It is critical that they understand their right to a fair assessment as they adapt to the COVID era.

Now more than ever, property owners need to be vigilant about ensuring that they are being fairly assessed by the various taxing bodies. Amidst the ongoing pandemic-related economic challenges and uncertainty, we hear from clients—both large and small—that any amount saved in real estate taxes is potentially allowing them to keep their doors open for business. Commercial property owners may know that their assessments are largely based on the income approach and that a property's income is used as the baseline to arrive at its full market value. Therefore, owners should take into consideration any loss of income at the property as any decreases in income likely deflates the property's value. It could serve as the basis for a reduction in assessment, which in turn leads to decreased tax bills.

In addition to observing that most landlord's rental revenue is down, the tax certiorari practice has had a unique, first-hand view of the challenges that many municipalities now face as a result of the pandemic. Namely, municipalities in our region have been hamstrung with crippling low revenue. This will cause budget shortfalls across the board with governments looking for ways to bridge the gaps. As one of the hardest hit regions, federal money paid directly to our municipalities would be a total game changer and would allow local governments to curtail their budgetary woes immediately. There remains uncertainty, however, as to whether the federal government is willing to write that check. As a result, we may see our local governments being forced to get creative.

Throughout the pandemic, we largely experienced a general willingness from municipalities to work collaboratively with taxpayers. The timing of the pandemic happened to directly coincide with filing deadlines throughout various parts of the state. Strong leadership on counsel's behalf for property owners (and the bar associations) working together with the governments and the court system ensured safe and timely compliance with these otherwise technical and strict statutory filing requirements. Negotiation of cases, which otherwise would require court appearances or in-person conferences, are being accommodated by other means including videoconference. Most municipalities extended deadlines to pay real estate taxes, and though it certainly helped some taxpayers, it almost certainly will not be enough to buoy the market.

Municipalities, which are largely reliant on a strong commercial tax base, will be best served in continuing with a collaborative approach of sensitivity of owners' needs.

Moving forward, we are hopeful that municipalities are mindful that decreased rental income likely means decreased property values for landlords. Further, raising real estate taxes in any manner whatsoever threatens the economic viability of a region that has been tremendously hard hit by the pandemic. Every effort should be made to correct assessments so that a taxpayer is only paying taxes based on the market value and not more. Most important, as we begin to determine the impact that the pandemic has had on real estate values, municipalities should be anticipating the need for their budgets to include prompt payouts of refunds to its taxpayers who have paid taxes on

values that exceed the market value of their properties. Taxpayers need that money now more than ever in this challenging market.

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