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The uncertainty surrounding the Delta variant should reduce property taxes for many properties - by Brad Cronin and Sean Cronin

September 07, 2021 - Long Island

Brad Cronin

Sean Cronin

Property taxes should be reduced commensurately with declines in the market and specifically, their particular property's operations. This is not a new concept, rather, a very old one that calls for property tax burdens to correspond with the market value of a property. The reason why it is so important with COVID, is that the impact is drastic, with many properties seeing declining operations by greater than 50%. In these cases, properties are entitled to a commensurate reduction in taxes.

For those properties hoping to come out of COVID, the Delta variant, and consumer's response to it, has added yet another twist to real estate's COVID battle.

Not since the Great Recession or catastrophic events such as Superstorm Sandy have we seen property values fall off a cliff so rapidly in certain sectors. In some instances, this monumental diminution of value for a property can be massive for a short period of time, then stabilize to a new market value going forward. However, there are other cases where properties have suffered irreparable harm from COVID and will never be the same. The Real Property Tax Law allows both circumstances to be considered by having specific valuation dates for each tax year upon which property taxes are based.

The law calls for properties to be valued as of certain valuation dates each year. For example, the current tax year in Suffolk County values the property as of July 1st, 2020. While it was only 14 months ago, a tremendous amount has changed since that date. As of July 1st, 2020, zero percent of the United States population were vaccinated. Outdoor dining had just begun to be allowed in June, albeit in a distanced manner. New York's list of states from which travelers would have to quarantine for 14 days upon arrival was growing with the governor announcing seven additional states that would require quarantine status on June 30, 2020. Cases were still increasing with the U.S. recording what was at the time the highest single-day rise in cases anywhere in the world, with 77,638 infections on July 17th.

This meant properties were still operating with enormous restrictions, if they were even operating at all. In order to value a property for tax purposes that year, one must put themselves in the shoes of an investor on July 1st, 2020. Owners had just completed a trying three and a half months of new and unknown circumstances, many of which required rent abatements and increased expenses. The environment was so bleak, that there is no doubt that commercial properties that experienced these struggles must have their tax bills reduced or refunded for the overvaluation as of July 1st, 2020.

Fast forward to July 1st, 2021, the valuation date upon which next year's taxes will be based. While some properties were beginning to forge a new path, having made adjustments, others were still experiencing vacancies and decreased rent collections. Mask requirements remained in place for unvaccinated individuals as the Delta variant had been found to spread at a greater rate of infection than previous strains of the virus.

The uptick in positive cases has resulted in increased guidance in regards to proof of vaccination requirements at the workplace, restaurants, gyms and entertainment venues. Putting aside the medical implications, on the most basic level, the Delta variant has disrupted consumer behavior. Some restaurant patrons are considering eating at home rather than risk exposure. Gym goers are putting off their memberships as they choose to exercise outside. Indoor venues are still limiting capacity in many instances, sometimes not for regulatory compliance, but to provide customers who may be sensitive to the Delta variant a sense of safety.

These adjustments, whether voluntary or government regulated, directly impact foot traffic and sales. These same items then directly impact tenant's abilities to keep up with rent and pay their landlord. While vaccinations began to provide a feeling that things would return to normal, the Delta variant has added an element that we hoped had passed.

A recent US News poll found that 41% of adults are “extremely” or “very” worried about themselves or their family becoming infected. A number that the same poll had not seen so high since January. Another section of the poll found that at least half of Americans still say they always or often wear a mask around others, shun large groups and avoid non-essential travel.

In regard to property values and corresponding property taxes, it is entirely irrelevant if this “extreme worry” is well founded. The critical factor is that the variant is adversely impacting the way people behave in regards to returning to the office, shopping in person and attending live events. For this reason, the Delta variant has continued the negative impact upon property values. While owners had hoped COVID impacts would be limited to one year, those who have seen their operations decline, should be provided the property tax relief they deserve not only on the basis of the 2020 valuation date, but now the July 1st, 2021 date as well.

Brad Cronin, Esq., and Sean Cronin, Esq., are partners at Cronin & Cronin Law Firm, PLLC, Mineola, N.Y.