nyrej

A guide to lowering property taxes - by Joel Marcus

March 08, 2022 - Front Section

Joel Marcus

Ouch! The sting of ever-increasing property taxes is a never-ending problem for owners of real estate. However, there are a number of things an owner or manager can do to reduce their property taxes. My firm Marcus & Pollack LLP has been at the forefront of property tax appeals for more than 40 years. During this time, we developed a number of successful techniques and strategies which are proven to get good results. I will share some of the tips and tools that have shown the most promise.

The first thing you can do is to just pay attention to the new tax assessment that is published every

January 15th. The City of New York indicates a full market value and an assessed value, which is at 45% The taxes are computed by the tax rate times the assessed value. Most properties can find a Notice of Property Value (NOPV) on the Department of Finance website. The NOPV details how they arrived at your new tax assessment. Look at what they estimated your gross income and operating expenses to be. Compare that with your recently completed income and expenses. If they have overestimated your gross income, or underestimated your expenses, you may have a good case for an assessment reduction.

The next step is to make sure you file an application to the Tax Commission to review this assessment. The filing deadline is March 1st. Along with the application, you will need to supply the 2021 financial statement. Attorneys can show you how to follow this procedure, do the filing, and set up a hearing with the Tax Commission to review the assessment.

For income producing properties you may want to review your rent roll. Are your rents going up or going down? Are your vacancies increasing? How many of your tenants are behind in rent, going bankrupt, or on a credit watch? All these are factors can enhance your ability to reduce your tax liability. If there are vacancies, you need to document how hard you've worked to find new tenants. You may want to include a letter from your leasing agents detailing the possibility that new rents will be less than old rent levels.

The next step is to review the condition of the building. Are there any serious capital improvements planned in the immediate future or on the way? Also, in order to replace vacating tenants, you might have to occur substantial improvement costs to elevators, lobbies, and of course, a tenant work allowance. For some properties, new amenity spaces may need to be built or upgraded. The costs are a factor that can be used to lower your valuation.

You should also review tax assessments and income and expenses of competing properties. You might be surprised to find comparable properties that are assessed and taxed less than yours. Find out why.

With this information an attorney who specializes in this field can put together a pro forma evaluation that will emulate the considerations a potential investor or purchaser would assume regarding your property.

For non-rent producing properties like owner occupied buildings and businesses, the process is a little bit different because you need to estimate potential income and expenses from rent producing comparable properties nearby. You can supply your attorney with information on similar properties. He/she will be able to look up the tax assessments and the estimated income and expenses that should be utilized by the assessor for those properties.

All this information should be distilled into a concise memorandum to be supplied to the Tax Commission for consideration. Now, you have to add the secret sauce - the special nature of your property. This, in addition to the raw data put together above, can help produce a further reduction of taxes. This could be for example, the landmark status, or a nearby property that is a nuisance such as a nearby homeless shelter. The age and condition of the building, the configuration of the floor plates, columns, location on the block, and capacity of elevators. It’s important to have photographs of all of the negative features of your building. It also helpful to present the condition of a space recently vacated by a tenant, which will require a major upgrade to put it in leasable condition.

The market value is determined by estimating the gross and net income potential of the property. However, the factors described above will have an important part in how much to discount actual income and how much to bolster operating expenses.

There is so much truth to the adage that every property has unique features. Identifying any negative aspects or challenges your property faces is the best way to give you an edge in negotiations with City officials who are charged with the responsibility of reviewing and agreeing to assessment and tax reductions. The more color you can give your property and the more compelling your attorney can be in representing it, the better the result will be.

Property taxes have been increasing for dozens of years, but rising crime, homelessness, vacant storefronts, and covid effects are factors that can be used to produce more successful outcomes.

Joel Marcus is a Partner at law firm Marcus & Pollack LLP, based in New York.