



With aid and relief programs winding down, beware of high property taxes - by Brad Cronin and Sean Cronin

June 14, 2022 - Long Island



Brad Cronin

Sean Cronin

School taxes make up approximately two-thirds of each property tax bill. Two years ago, the onslaught of COVID led to increased spending in almost all of Long Island's 124 school districts. However, with federal aid and reserves, the pass through to taxpayers was similar to any other year. That same story played out again this May with budgets increasing approximately 4.17% on Long Island and voters supporting these budgets in 123 of 124 school budget votes. For the third year in a row, the impact on the taxpayer will again be tempered by federal aid, but taxes are still scheduled to increase approximately 1.54%.

Whether budget cuts should occur or not is a separate debate that has advocates on both sides. As much as that topic is discussed, the reality is that school budgets and corresponding tax rates increase each year. We've seen only one consistent pattern with budgets, it's that they seldom go down. With Nassau and Suffolk already having the unfortunate distinction of some of the highest taxes in the nation, where will these increases leave us when the funding slows down? The eye-popping figures must then be paid entirely by taxpayers, and the timing looks to be awful. Inflation is at all time high, interest rates are climbing and even the stock market's volatility is more uncertain than it has been in years. This equation can yield a disastrous result for Long Islanders.

When New York implemented its 2% property tax cap, some critics labeled it a band-aid on a bullet hole. While it didn't cure the region's high taxes, it did help eliminate wild fluctuations year over year and provide owners with some certainty they could plan for. The biggest problem with the tax cap was that it was too late. Its purpose is to limit the increase over the prior year levy, but this was based on already high tax levies. The problem will now be compounded with budgets increasing at a faster pace.

For a period of time, owners and taxpayers were buoyed by PPP loans and other assistance, but those have largely ceased. The end of eviction moratoriums will help clear nonpaying tenants, but in most cases, owners will never be made whole for the rent they have missed.

Business owners are also facing higher costs of supplies, delays in receiving product and a massive labor shortage. The combination of these factors have caused some to close their business, which eliminates an entire revenue stream for some property owners. There are some tenants beginning to look for space again, with second generation restaurants and fitness spaces starting to see interest from those that are expanding locations. However, these tenants are aware they have options and are seeking lower rental payments as compared to before the pandemic.

Rising interest rates make for tighter margins as well. While intended to curb inflation, increased interest rates have caused some buyers to walk away from transactions that did not have a lower rate locked into their contract price. This goes hand in hand with increased risk translating in the form of higher capitalization rates. Buyers need greater returns if they are to take on the risk of the current economic climate. This intensified risk, when factored into an owner's property tax case, should result in lower taxes.

Under the law, when risk conditions increase to a degree that capitalization rates rise for commercial

owners, this should result in a lower assessed value. An assessor will rarely proactively reduce the assessment on their own. Rather, a grievance must be filed and the assessor must be informed as to how the market conditions have impacted their property. Without being presented the proper evidence, an assessor might assume that property operations have not changed and with tax rates increasing each year, the property taxes will actually increase.

Take for instance a center with 20,000 s/f gym that continues to operate. On the outside, that gym may look like one of the primary drivers of traffic to a shopping center. However, many owners are finding that gyms are still unable to catch up with all their losses and are either behind in rent or unable to pay at all. Similar examples have come from restaurants, catering facilities, and even office buildings. With those sectors contracting, landlords have been forced to make accommodations for tenants since having the space go vacant is a worse alternative.

The combination of increased tax rates and lack of subsidies colliding with market factors, increased risk and declining operations has made operating commercial properties as difficult as ever before. However, if presented to the assessor, these owners will be in position to obtain a significant reduction in property taxes that is desperately needed to survive the current conditions.

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

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540