Property Valuation Topics

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Reduce Taxes on Empty Buildings?

The United Kingdom is phasing out a very quaint property tax protocol. Prior to April 1, 2008, owners of vacant *commercial* property were exempted from property taxes for the first three months of vacancy; owners of vacant *industrial* property were fully excused from property taxes after old tenants departed and until new tenants arrived! Thereafter, owners were only required to pay half the normal taxes until the building rented.

These wonderful tax breaks have been abridged so that after April 1, according to Beth Carney's article in the May 17, 2008, *Wall Street Journal*, the grace period for *commercial* properties will be reduced to three months and after that, owners have to pay full taxes whether or not property is occupied. *Industrial* property owners will receive a six month grace period after which full taxes will kick in.

According to the Department of Communities in Local Government, the tax holiday was sharply abridged to eliminate "the perverse incentive – in the old policy for owners to keep their properties empty . . . ."

Contrarians assert that a few owners "might destroy older buildings slated for redevelopment instead of trying to find short term tenants." One wonders how realistic a fear this might be!

Whatever the long term impact, one British REIT notes that it will pay an additional five million pounds Sterling in additional taxes after the change is effective.

Gregory F. Servodidio, (860) 424-4332, gservodidio@pullcom.com, can provide further thoughts on this topic.

Late Filing of Property Declaration Reviewed

With no authoritative legal decisions to guide taxpayers, it has been unclear whether personal property declarations, which are to be filed every year by owners of assessable personable property, must be submitted to the assessor's office on November 1 or whether mailing, faxing or an email PDF is sufficient. While the applicable statute imposes a penalty for failure to file the personal property rendition by November 1 each year, many assessors' offices accept facsimiles and original renditions with envelopes postmarked by November 1, whenever received.

A Bridgeport taxpayer mailed its rendition on October 31; it arrived in the Bridgeport Assessor's office on November 3. The Assessor imposed the statutory 25 percent penalty.

Since the statute is silent about mailing and uses the word "file," Judge Trial Referee Edward V. Stodolink ruled that a postmark on or before the filing date was insufficient; the practices of other assessors could not help the taxpayer here.

> **"Taxpayers are probably well advised to use certified mail to conclusively establish the date of posting... ."**

As a result of this decision, newly enacted legislation provides that "any declaration received by the municipality to which it is due that is in an envelope bearing a postmark showing a date within the allowed filing period shall not be deemed to be delinquent . . . ." This legislation is effective for

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the October 1, 2008, grand lists.

Taxpayers are probably well advised to use certified mail to conclusively establish the date of posting and to preclude the possibility that administrative personnel at the assessor's office do not retain the envelope after stamping a declaration as having been late filed. In this, as well as other similar circumstances, the burden of proof of statutory compliance will be on the taxpayer.

SBC Internet Services, Inc. v. City of Bridgeport (and companion cases); Superior Court, judicial district of Fairfield at Bridgeport (February 15, 2008).

If you have any questions or comments, please contact Elliott B. Pollack at 860-424-4340 or by email at ebpollack@pullcom.com.

A New Investment Vehicle – Medical REITs

Beth London writes in the May 16 issue of *New England Real Estate Journal* that the specialized real estate investment trust known as a medical REIT has become popular lately.

According to Ms. London, these entities invest in "properties like health care facilities, medical office buildings and retirement and nursing homes." One of the advantages offered by this vehicle is the ability to provide capital to hospitals, nursing homes and other health care providers by entering into sale/leasebacks for their real estate.

The editors of *Property Valuation Topics* are not certain as to how much the Connecticut healthcare real estate market can be penetrated by medical REITs since the transfer of real estate by a not-for-profit tax exempt hospital to a for-profit non exempt REIT would likely result in the forfeiture of the hospital's local *ad valorem* tax exemption which would greatly increase the cost of care in most cases. There are probably more opportunities to consider this approach in the long term care world since many Connecticut nursing homes and assisted living facilities are owned by for-profit entities.

Laura A. Bellotti represents for-profit health care entities in *ad valorem* litigation. She can be reached at (860) 424-4309 or by email at lbellotti@pullcom.com.

Charitable Exemption Denied

The Michigan Court of Appeals appears to have had little difficulty in supporting a local assessor's rejection of a property tax exemption for a gun club. The North Ottawa Rod & Gun Club, Inc. is a non profit shooting sports club. While its facilities and firearms courses are open to the general public, a fee is charged.

"The final nail in its lawsuit was the court's reference to the use of the funds collected by the club from its activities over and above dues."

Attempting to base its tax exemption claim, at least in part, on conservation activities it carried on, the club was rejected. Its effort to assert some public benefit from its hunter safety classes did not impress the court because, again, it charged a fee.

The final nail in its lawsuit was the court's reference to the use of the funds collected by the club from its activities over and above dues. Nice try, the court noted, but funding cash prizes for club members at club events doesn't exactly amount to a public purpose.

North Ottawa Rod & Gun Club, Inc. v. Grand Haven Charter Township, Michigan Court of Appeals, August 21, 2007.

Please contact Marjorie S. Wilder at 860-424-4303 or by email at mwilder@pullcom.com for a copy of this decision.

Tax Appeals as an Indication of Falling Values?

Clark County, Nevada, (Las Vegas) is depicted in the national real estate financial press as being one of the most depressed real estate markets in the country. Eight of the ten national zip codes suffering the highest rate of mortgage foreclosures are located in Clark County. Does this translate to an increased number of tax appeals?

According to APTC member Douglas S. John of Bancroft, Susa & Galloway of Tucson, Arizona, the Clark County assessor's office reports that the number of tax appeals filed with the local board increased from 722 in 2007 to 1,370 in 2008.

Any member of the Property Valuation Department would be pleased to discuss this article with you.

Connecticut Property Revaluations

The following municipalities are planning to conduct property revaluations effective October 1, 2008.

2008 Connecticut Property Revaluations

Avon	New Canaan
Barkhamsted	New Hartford
Bethany	New London
Bethlehem	Norfolk
Bolton	Norwalk
Bridgeport	Norwich
Bridgewater	Old Saybrook
Burlington	Putnam
Canton	Rocky Hill
Chaplin	Scotland
Cheshire	Sharon
Chester	Sherman
Darien	Suffield
East Granby	Torrington
Essex	Union
Franklin	Washington
Hampton	Watertown
Harwinton	Weston
Kent	Wethersfield
Lebanon	Willington
Litchfield	Windsor
Lyme	Windsor Locks
Monroe	Woodbury

ATTORNEY NOTES

Department Chair **Elliott B. Pollack** will speak on property taxation in the United States at the annual symposium of the International Property Tax Institute which will be held at the Canadian Embassy in Berlin, Germany, in September. For further information, please visit www.ipti.org.

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Property Valuation Topics

850 Main Street
Bridgeport, CT 06604
Phone: (203) 330-2000
Fax: (203) 576-8888

90 State House Square
Hartford, CT 06103
Phone: (860) 424-4300
Fax: (860) 424-4370

300 Atlantic Street
Stamford, CT 06901
Phone: (203) 324-5000
Fax: (203) 363-8659

253 Post Road West
Westport, CT 06880
Phone: (203) 254-5000
Fax: (203) 254-5070

50 Main Street
White Plains, NY 10606
Phone: (914) 682-6895
Fax: (914) 682-6894

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PULLMAN & COMLEY, LLC ATTORNEYS AT LAW 850 MAIN STREET P.O. BOX 7006 BRIDGEPORT, CT 06601-7006