

Unraveling the World of Florida Property Taxes

Property taxes are a tremendous operating expense for commercial property owners, but many property owners have little working knowledge of them. Unlike income taxes, property taxes are based on an assessed value as determined by a government body. In today's market, it is not uncommon to find property assessed at a value higher than its actual just value. These over-assessed properties result in impacted landowners bearing an inordinate tax burden based on an improper assessment. In spite of this, surprisingly few property owners understand the process of obtaining relief from inaccurate tax assessments.

Overly burdensome assessments can come about for any number of reasons or market factors. These include property vacancy, adjusted rent, renegotiated lease terms, lack of market demand. Additionally, vacated tenant build outs or special construction may limit prospective tenants without significant expense to the property owner. Sometimes the problem can be as simple as a lack of information available to the property appraiser or the property appraiser's flawed application of existing data. At the end of the day, an accurate assessment should generally relate to an accurate value of a given property. This article will shed light on the assessment process itself and will explain your options if you find yourself bearing an inequitable burden of taxes from an over assessed property.

Every year, Florida property appraisers determine the "just value" of properties within their jurisdiction as of the first day of January. This value becomes the basis for the taxes assessed against each particular property by one or more of Florida's 640 taxing authorities. Florida law requires that property appraisers take into account the cash value of the property, the highest and best use of the property, the location of the property, the size of the property, the condition of the property and the income from the property. The law also requires that the property appraisers use professionally accepted appraisal practices when reaching a conclusion as to just value.

After the property appraiser determines a just value, Florida law requires that the tax assessor send each property owner a TRIM ("Truth in Millage") Notice. Property appraisers mail these to each property annually during the month of August. Each notice contains the property appraiser's proposed assessed value, any applicable exemptions, millage rates proposed by each taxing authority and, most importantly, an estimated amount of taxes owed for the property. Upon receipt of the TRIM Notice reflecting an inaccurate assessed value of their property, a property owner may choose to appeal that valuation amount.

Property owners choosing to appeal the property appraiser's assessed valuation of their property generally have two choices for relief. First, a property owner may choose to appeal the assessed value to a Value Adjustment Board (VAB). Each county has its own VAB that hears property tax challenges and provides a review of the assessed value independent from the property appraiser. The local VAB consists of two members of the County's governing body, one member of the County School Board, one citizen who owns a homestead property in the County and one citizen who owns a business in the school district. A property owner must file an appeal to the VAB within 25 days of the TRIM

Notice's mailing. Second, a property owner may choose to petition directly in circuit court for a judicial review of a property's assessed value. While VAB decisions may be appealed to the circuit court, a property owner may choose to bypass the VAB and petition directly to the circuit court. In such cases, the rules of evidence and civil procedure apply and the circuit judge determines the assessment amount based on evidence presented by both sides.

Every case is different, and property owners should consult a professional as to which strategy is most appropriate for their case. However, there are some general benefits to each avenue of relief. For instance, a petition to the VAB can be more streamlined than the filing of a lawsuit in circuit court. The procedural rules for VAB's allow for an elective exchange of evidence between the landowner and the property appraiser. However, if a property does not provide evidence to the property appraiser, it may not be used at the hearing. At the VAB hearing, both sides present evidence to members of the VAB or to a special master who then provides a written recommendation to the VAB regarding the assessment. The downside to this proceeding is that discovery of the property appraiser's evidence is limited to 7 days prior to the hearing. Moreover, the independence of a VAB may be less assured than that of a circuit court judge because 3 out of 5 of the VAB members themselves are members of the local government and all members are ultimately appointed by and accountable to local governments. Lastly, if a landowner disagrees with the VAB's decision, they must decide whether to accept the ruling or incur the further expense of a circuit court lawsuit.

Landowners who choose to bypass the VAB process and proceed directly to circuit court choose a potentially longer and more expensive process. Nonetheless, the expense can be justified by the opportunity to argue before a neutral judge after utilizing the advantages of the evidence code and the rules of court that apply to circuit court cases. Specifically, the discovery process allows both parties to understand one another's cases through written discovery and recorded testimony prior to the trial. Additionally, most jurisdictions require mandatory mediation between parties that can be helpful in resolving disputes.

Property owners must file circuit court petitions within 60 days from the date the assessment is certified. Property appraisers generally certify assessments in early October, so the petition must be filed by early to mid December. Prior to filing a circuit court petition, the property owner must make a payment based on a good faith determination of taxes owed. The receipt for payment of the good faith determination of taxes owed is required to file the petition.

Prior to 2009, successfully challenging a property tax assessment in circuit court was extremely difficult for property owners. This was because the law was crafted with an eye towards deference to property appraisers rather than ensuring that property was assessed at just value. However, new laws have leveled the playing field for property owners faced with inaccurate or unfair property tax assessments. Today, the goal of the appeals process is to establish an accurate assessment of the property based on the evidence. Property owners should pay attention to their respective assessments and consult a property tax professional to determine the best course of action when faced with overly burdensome assessments.