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RECENT AMENDMENTS TO TAX INCENTIVES

On March 23, 2017, the Cook County Board passed new amendments to the incentive tax ordinances. (Secs. 74-46, 74-62 thru 74-73 of the Cook County Code) The intended recipients of many of the Assessor’s tax incentives are owners and/or tenants who agree to purchase and/or inhabit distressed properties that are undergoing new construction or properties that are undergoing substantial rehabilitation. For example, distressed commercial or industrial properties that have experienced chronic vacancy of at least 12-24 consecutive months would benefit from these tax incentives which would provide a lower level of assessment over a 12-year-period. Levels of assessment of 25% of fair market value would be reduced to a 10% level for the first 10 years of the tax incentive period; 15% in Year 11; and 20% in Year 12. For a commercial property, the standard property worth

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2017 RE-ASSESSMENT OF SOUTH & SOUTHWEST SUBURBAN COOK COUNTY

In Cook County, at least once every 3 years, the Assessor reviews and re-assesses approximately 1/3 of the County in what is termed a “triennial reassessment”. In 2017, the South and Southwest Cook County suburbs are scheduled to be reassessed. Next year, in 2018, the City of Chicago proper will be reassessed. In 2019, the North and Northwest suburban areas will be reassessed.

Irrespective of *WHEN* a property is reassessed, it is always a good idea to have a real estate tax attorney review, and if warranted, file a property tax appeal with the appropriate agency hearing such matters.

Generally, throughout the State of Illinois, in any given year, appeals can be heard by the local

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"I'm proud to pay taxes in the United States; the only thing is, I could be just as proud for half the money."
--Arthur Godfrey

RECENT AMENDMENTS

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\$1,000,000 would be assessed at \$250,000 without the incentive benefit, whereas, with the benefit, the property would only be assessed at \$100,000 or 150% less.

The recent changes to the tax incentive ordinance include the following amendments:

- 1) Applicants seeking an incentive would have to supply “Economic Disclosure Statements” which must include a list of all the real estate that the applicant owns within the county and their Permanent Index Numbers (PINs) and a disclosure of ownership interests and certification that the applicant is not delinquent on paying their property taxes;
- 2) The definition of “employer” has been changed to include “any person or entity that employs twenty or more employees,” meaning the County’s living wage requirements will only apply to employers who have 20 or more employees working at the property in order to be eligible for the incentive;
- 3) Employees who work at properties that receive tax incentives would have to be paid “a living wage” regardless of ownership;
- 4) The ordinance in support of the project must describe the redevelopment objective of the municipality and the intended use of the property;
- 5) Rather than requiring protracted “formal” municipal authority subject to the Open Meetings Act, “authorized officers” designated by the municipality can expedite a “letter of support” to include with incentive applications for properties located in Industrial Growth Zones and Retail Corridors;
- 6) All incentive class (6b, TEERM (Temporary Emergency Economic Recovery Modification Program), 6b, SER (Sustainable Emergency Relief Program), 7a, 7b, 7c, and 8) incentives can be revoked. The ordinance previously only allows Class 7c incentives to be revoked;

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- 7) Recipients of tax incentives processed through the Cook County’s Bureau of Economic Development (BED) must enter into an agreement with the Chicago Cook Workforce Partnership to work directly with the individual applicants or entities seeking the incentive in order to fill job openings and vacancies for a period of at least seven business days from the date job vacancies are opened; and
- 8) All property tax incentives received by the Cook County Assessor that require a Cook County Board of Commissioners Resolution of support will have to pay a \$1,000 filing fee, except Class 7a projects, where the total development costs are less than \$1,000,000. All property tax applications received by the Cook County Assessor that require a Resolution of support from the Economic Development Advisory Committee (EDAC) will have to pay a filing fee of \$2,500 except for Class 7c projects where the total development costs are less than \$1,000,000.

“Cook County Committee Preview: Tax Break Changes, FOIA Friendliness and Federal Funding” by A.D. Quig of ad@thedailyline.net (March 22, 2017)

These changes were sponsored by Commissioner Chuy Garcia to ensure the beneficiaries of the property tax incentives are delivering on promised jobs and making building improvements or re-occupying formerly vacant property and that the property owners conform with the county’s wage requirements and statutory rules for workers’ rights. Other proponents have said that these amendments increase transparency and prevent fraud. □

2017 RE-ASSESSMENT OF SOUTH & SOUTH-WEST SUBURBAN COOK COUNTY

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township Assessor's Office, the local County Board of Review, the Illinois State Property Tax Appeal Board, or in the County Circuit Court. Each venue has different filing deadline dates, varying rules and procedures for filing of appeals, complaints, differing requirements for the presentation of evidence and what constitutes sufficient proof to show that a property is overvalued. Because of these varying requirements, it is best to consult with and be represented by an attorney who is familiar with the multitude of details surrounding a presentation that is most likely to result in a tax savings.

Reasons for filing an assessment appeal could include the following:

- A recent purchase of a property at a market value LESS than the market value indicated by the Assessor;
- A recent appraisal indicating a final opinion of value that is LESS than the current market value established by the Assessor (i.e. refinancing appraisals; appraisals for estate purposes; ad valorem tax appraisals, etc.);
- A physical change in the property that has rendered it unfit for its intended use or occupancy (i.e. fire, flood or wind damage, environmental contamination, etc.);
- An economic condition that renders the property diminished in its income-producing capacity (e.g. partial or total vacancy due to a tenant being evicted, or leaving at the end of a lease term);
- An error in the Assessor's description of the property that differs from the property's actual characteristics (e.g. a detached garage building that no longer exists, but still appears on the Assessor's property record card);
- Similar types of property (i.e. gas station, fast-food restaurant, industrial building, apartment building), despite being very similar, are being valued in a non-uniform manner.

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These are just some, of a myriad of reasons, how a property may be considered to be overvalued.

Obviously, filing a property tax appeal may, if presented properly and with merit, lead to a lowering of the assessed value associated with the real property. It stands to follow, that a lower assessment will translate into a lower property tax bill as well. With a lower tax bill, the property is more economically viable if it is an income-producing investment, or more attractive to a potential buyer or tenant if the property is contemplated to be marketed for sale or lease. □

ILLINOIS SUPREME COURT VACATES APPELLATE COURT DECISION TO REMOVE PROPERTY TAX EXEMPTION FOR HOSPITALS

In an opinion issued on March 23, 2017, the Illinois Supreme Court vacated a 4th District Illinois Appellate Court decision to remove the property tax exemption for not-for-profit hospitals in *The Carle Foundation, et al. v. Cunningham Township*, 2017 IL 120427 (2017). The case will be remanded back to Circuit Court to determine whether not-for-profit hospitals are eligible to use the charitable-use property tax exemption. Under the Illinois Property Tax Code (35 ILCS 200/15-86), hospitals are eligible for a property tax exemption if the value of its charitable services is equal to or greater than its estimated tax liability. The Illinois Health and Hospital Association (IHHA) wanted the Illinois Supreme Court to rule on the constitutionality of the property tax exemption for not-for-profit hospitals, but they were still excited and happy with the Supreme Court's decision. "Especially in this era of increasing financial stress on hospitals and increasing uncertainty about things like the Affordable Care Act, the tax exemption is one way to ensure that all of the hospitals' financial resources are devoted to caring for their communities," said Mark Deaton, General Counsel of the IHHA. "Paying property taxes diverts scarce resources to purposes other than health care for the community".

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TAX EXEMPTION FOR HOSPITALS

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“Illinois Supreme Court delivers partial win for hospitals on property taxes”, by Lisa Schenecker, Chicago Tribune, March 23, 2017.

On the other side of the issue, lawyers of the taxing bodies who are reliant on taxpayers funding their budgets argued that cash-rich not-for-profit hospitals should have to contribute their fair share to their communities. If not-for-profit hospitals had to pay property taxes in Illinois, those sums would equal to huge sums of money, lessening the tax burden on individual homeowners. For example, Carle Foundation Hospital was named the 10th-most profitable hospital in the country when it came to patient care services in 2013 as published in the journal, Health Affairs last year.

On December 22, 2016, in a separate Illinois case (Constance Oswald v. Brian Hamer and the Illinois Department of Revenue, 2016 Ill.App. 152691(1st Dist. 2016)), the First District of the Illinois Appellate Court case upheld a lower court’s ruling that the law which allows for a hospital to have tax-exempt status based on the value of its charitable services being equal or greater than its estimated tax liability was constitutional. Mark Deaton of the IHHA has stated that he anticipates this case will make its way to the Illinois Supreme Court.

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The Carle Foundation case is an important case to monitor because it will have far reaching implications and financial ramifications on municipalities, hospitals and the overall health care costs for the citizens of Illinois. □

CHICAGO’S TAX RATES UP - - NORTHERN COOK COUNTY TAX RATES DOWN

The Equalized Tax Rates for the City of Chicago and the rest of Cook County have been released ahead of the 2016 second installment tax bills that will be arriving in mailboxes around July 1st for payments due August 1, 2017.

The large increase in the City’s tax rates (4%) were expected due to the City and Chicago Public Schools imposing a multiyear tax increase to account for shortfalls in worker pension plans that were under funded in preceding mayoral administrations.

Tax rates in the suburban portions of the county will actually be slightly lower in contrast to the City of Chicago proper, with the northern suburbs showing declines less than the previous year by about 13%. The south suburban area of the county will also see a minor 2% decrease in average tax rates as well. □

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