

Appeals Process Could Reduce Property Tax Bill

By Gary Tasman and Mike Hagen

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Yesterday, the Lee county property appraisers began sending out TRIM (Truth in Millage) notices to property owners, as required by law. If this year's assessments are anything like last year's, I see a record number of property tax appeals to the Valuation Adjustment Board (VAB).

In 2007, increased dissatisfaction over property taxes led to an avalanche of appeals to the VAB — 3,789 in Lee County alone. This represented an increase of almost 69% over 2006, causing the hearing season to run from October 2007 through February of this year. However, due to stricter policies by the property appraiser's office and a more stringent stance from the local special magistrates (who hear the appeals), only 6.7% of petitioners were granted reduced assessments.

To some degree, the initial assessed values from the Lee County Property Appraiser's office in June reflected the downturn in the real estate market. In Lee County overall, taxable value was down 12%, although some areas (such as Cape Coral and Lehigh Acres) saw assessed values decrease by twice as much. Nonetheless, many property owners do not believe that this is sufficient, in light of current market conditions.

Further, despite taxing authorities' promises of "belt tightening," it is widely expected that most will raise millage rates to compensate for the loss in taxable value. Obviously, this mitigates the benefits of reduced assessments to taxpayers. As a result, many of these dissatisfied owners are likely to flood the VAB with petitions to have their property valuations adjusted.

If 2007 is any indication, a very small percentage of petitioners will be successful in 2008. Those that are granted reduced assessments will be well-prepared and able to prove why and how their properties are overvalued.

Due to the complexity of the appeals process, most property owners with substantial evaluations hire an attorney or a professional property tax expert to represent them. In fact, last year, 71.5% of petitioners in Lee County did so.

One such expert is attorney and licensed real estate broker Michael Hagen, whose practice focuses on property tax consulting and real estate law. Having been the Lee County Property Appraiser's attorney from 1994 – 2003, he is well qualified to represent taxpayers in court. Further, he handles valuation appeals through his property tax consulting company, TaxCuts1, Inc.

This week, Mike has kindly offered to walk us through the process of presenting a successful appeal. As he explains below, there are quite a few steps involved.

VAB BASICS

First, you are required to file a petition that the VAB must receive within 25 days of the TRIM notice mailing date. You can download this form from the Web site of the property appraiser (PA) at leepa.org. The completed petition must be notarized and three copies sent to the local VAB, along with a per-parcel fee, which typically is \$15.

The petition must be "timely filed," or it will be excluded from consideration. Hearings begin in October. (Due to the number of anticipated appeals, I wouldn't be surprised if they extended beyond last year's February cut-off.)

Next, at least 15 days before the hearing date, the property owner must provide to the property appraiser a complete copy of all of his documentation, including a summary of evidence and a list of witnesses. This is called the "Evidence Exchange Provision." Likewise, the property appraiser must provide his data to the petitioner at least seven days before the hearing. The goal of this process is to help level the playing field for both parties.

Provided all of this is done, a hearing will be held before the special magistrate. This is when the petitioner must support his opinion of value by providing data based on one or more of the standard approaches to valuation (market approach, income approach or, the cost approach).

Typically, after the special magistrate hears the case, he will not immediately announce his decision. Rather, he will render a recommendation in writing. At the conclusion of these hearings, the full VAB will meet to consider the recommendations and render final determinations (usually in harmony with the special magistrate's). Property owners who wish to challenge the VAB's decision have 60 days thereafter to file an appeal with the Circuit Court.

VAB APPEAL TIPS

Provided you have a solid understanding of the appeals process, you too may be able to get your property's assessed value reduced if you think your 2008 property tax bill is based on a flawed, inflated assessment. To increase the likelihood of a successful VAB appeal, please consider the following:

- 1) Timely file your VAB petition. This year, the deadline in Lee County is September 16th;
- 2) Study the law and procedures, which are readily available at www.leepa.org, the Florida Department of Revenue tax law library, the Florida Legislature Web site (www.leg.state.fl.us) or my Web site, www.taxcuts1.com;
- 3) Hire a professional to represent you, be it an attorney, a tax representative (typically a real estate broker experienced in ad valorem property tax appeals) or an appraiser;
- 4) Talk to the appropriate property appraiser representative and try to work things out, if possible. If nothing else, exchanging information informally may help both parties;
- 5) Start thinking now about tax year 2009 if you own income-producing property. I suggest you submit your year-end 2008 income and expense data to the property appraiser in early 2009 to preserve your right to appeal next year.

As the hearing process has become increasingly contentious and formal, professional assistance is highly advisable — if not essential — for petitioners. After all, the burden of proof is on them. **For more information, please call Mr. Hagen at (239) 275-0808 or visit www.TaxCuts1.com or www.MikeHagen.com.**

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