

TAX NOTES

Why Assessors Trip Up on Apartment Valuations

Three common pitfalls lead to unfair property taxes for multifamily owners. **By Gilbert D. Davila, Esq.**

All too often multifamily property owners are unaware of the errors assessors make in the valuation of their properties. By understanding how these mistakes occur, owners arm themselves with the weapons necessary to fight unfairly high property tax assessments. Assessor mistakes in apartment property tax assessments fall into three basic areas, forcing owners to remain vigilant.

1 *Simple errors in property records:* A review of data in the taxing authority's property records offers the easiest way to find assessment errors. Assessors' records routinely contain mistakes about a property's age, total square footage, net leaseable area, number of units, unit mix and facility amenities. A misstatement in one of these fundamental property characteristics can significantly increase a property's assessment.

Apartment owners should be prepared to share a current rent roll with their assessor in order to document the property's dimensions and features. It may also prove helpful to provide the assessor with copies of the property's most recent marketing materials, which show the project's different floor plans and amenities.

2 *Failure to consider a property's actual performance:* Another common error made by assessors is failure to consider the property's economic performance when deriving a market assessment. Multifamily owners typically determine market value based on the property's actual cash flow, while assessors use market-derived rent and vacancy figures to arrive at their valuations. Thus, owners should provide the assessor with the current and prior year's operating statements, if the numbers support a

value reduction. A detailed discussion of specific income and expense items can distinguish a property from other market comparables and show trends in rental rates, occupancy and expenses.

For example, assessors often respond quickly to higher rental rates, but move very slowly to acknowledge the offsetting increases in expenses. Over the last few years owners have felt the effects of sharply rising operating costs, and they now need to clearly and forcefully present these increases to the assessor.

Owners should delineate the costs of making a unit ready for occupancy. These costs are necessary to support the property's income stream and should be considered as valid expenses by the assessor. For older apartments, owners must inform the assessor about the cost to remodel or renovate their projects, since these are necessary to stay competitive with newer developments. Assessors generally fail to acknowledge the extent of capital repairs and renovations that aging buildings require.

Finally, owners have no choice but to present assessing authorities with detailed reports that convey the property's occupancy trends and how the property's occupancy level is performing when measured against comparable apartment complexes. It's wise to outline concessions and allowances given to maintain occupancy.

3 *Misconceptions about the purchase price:* Perhaps the most common mistake made by assessors is tying a property's real estate value to its purchase or sale price. The conflict between the real world of what an owner pays for a property and the hypothetical world of property tax assessments becomes a constant source of tension.

Simply because the recent purchase price of an apartment complex was higher than the taxable value of the property is no reason for an apartment owner to hesitate filing a tax appeal. Owners pay for apartments based on their analysis of factors beyond real estate. As a result, a purchase price should provide no more than a touchstone for an assessor.

Apartment owners arguing against a purchase price as the basis for value should outline for the assessor the factors that were considered in purchasing the property, such as special financing considerations and how the actual performance of the property differs from projections made at the time of purchase.

Assessors are notorious for focusing on high sales prices of comparable properties to support their aggressive assessments. Often, these properties are not truly comparable. Thus, owners should argue the physical and economic differences between the so-called comparable properties and their apartment project.

More specifically, owners should show the assessor that neither an analysis of public records nor interviews with buyers and sellers can reveal all the factors that influenced a buyer's decision to purchase a property. For example, the assessor would need to be aware that the sale price included a significant amount of business personal property and that the financing was obtained at interest rates lower than the prevailing rates in order to identify a truly comparable sale. Apartment owners must make sure that assessors are comparing apples to apples.

The key to arguing for value reductions lies in an apartment owner educating the assessor about the operating environment of a property, while at the same time educating themselves regarding the common errors assessors make in determining apartment values. ■



Gilbert Davila is a partner with the Austin law firm of Popp, Gray & Hutcheson. The firm is the Texas member of the American Property Tax Counsel, the national affiliation of property tax attorneys.