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2020 and 2021 Commercial & Industrial Property Tax Appeals **COVID-19 IMPACT AND EXTENDED FILING DEADLINE OF JULY 31, 2020**

Michigan Commercial and Industrial Property Tax Appeals

A property tax appeal is a challenge to the assessment value assigned to your commercial or industrial real or personal property by the local municipality. An appeal of your assessment to the Michigan Tax Tribunal is typically due by May 31, 2020. By Executive Order 2020-87, that date has been extended to July 31, 2020 so there is still time to appeal your 2020 assessment. Because the validity of this Executive Order (and others) is being challenged, we advise to file your appeal on or before the normal due date which, for this year, is Monday June 1. The Executive Order 2020-87 also opened up new opportunities to protest and appear at what will now be a second “March” Board of Review to be held in July (if you did not protest in March). For commercial and industrial real properties, a Board of Review protest is not required and can be a futile effort due to the complexities of these properties and the level of sophistication of the local boards of review and, at times, assessors.

Key Concepts Underlying a Property Tax Appeal

“Assessed value”: The assessed value is determined by a property’s fair market value (sometimes called “true cash value”). Set by the assessor, the assessed value when multiplied by two will give an approximate fair market value of the property. The assessor is constitutionally required to set the assessed value at 50% of the usual selling price that would be obtained for the subject property in an arms-length transaction between a willing buyer and seller on December 31st of each year.

“Taxable value”: Perhaps the most important concept to property owners is a property’s taxable value which is the value used for determining the property owner’s tax liability. Unlike the assessed value that can increase by any percentage in a given year, a property’s taxable value increase is capped from year to year by the rate of inflation or 5%, whichever is lower, except in the year following a sale or transfer of ownership that triggers an “uncapping” of the taxable value (to be equal to the assessed value). The bonus of a tax appeal that lowers the taxable value during a temporary dip in property values is that once lowered, the taxable value stays low year after year, subject to the small “cap” increases, even if the fair market value of that property recovers quickly and continues climbing.

2020 Property Tax Appeals and COVID-19

As noted, the “assessed” value is to represent 50% of the fair market value on Tax Day which, for your 2020 assessments (received in February 2020), was 12/31/2019. Consequently, even if your property value has quickly and substantially decreased as a result of the COVID-19 pandemic, to



prevail in a 2020 assessment appeal, you are limited to proving the fair market value on 12/31/2019. However, as noted below, the impact of COVID-19 on property values for 2021 (on Tax Day, 12/31/2020) could be significant.

A 2020 appeal may still be in order if you believe your property was over-assessed as of 12/31/19. The various possible reasons for an overassessment are too many to list. However, in an appeal, the assessor's value determination comes under a microscope and, for larger and/or unique commercial and industrial properties, is often flawed in significant ways resulting in overvaluations. The first step is to evaluate whether your property may be over-assessed for 2020 before the filing deadline of May 31, 2020.

2021 Property Tax Appeals and COVID-19 Impacts: Not Too Early to Start Planning

The fair market value of your property on 12/31/2020—Tax Day for a 2021 tax appeal—will determine your assessed value. A drop in your property value due to COVID-19 and any ensuing recession are legitimate value influencers, even if the dip in value turns out to be short lived. Of course, much is dependent on how our economy and property values react between now and 12/31/2020 when the snapshot of value is taken for any 2021 appeal.

Keep in mind as we move through these uncharted waters that a shuttered building or deferred maintenance/deferred capital replacements—even when due to efforts to preserve cash during 2020—will typically reduce the value of your property (e.g., most any buyer would take deferred maintenance/Cap-X into account). Keep this in mind as you make business decisions regarding improvements and repairs to your property during the remainder of 2020. Depending on the magnitude and urgency of the deferred maintenance, waiting until January 2021 or later may well be beneficial in any 2021 tax appeal you file.

Howard & Howard Is Here to Help

Remember, July 31, 2020 is the extended 2020 deadline for Tax Tribunal Appeals. As noted above, the most cautious approach would be to appeal on or before June 1, 2020.

Howard & Howard remains committed to providing our clients with stability and exceptional service during these uniquely challenging times. We are available to discuss any questions you might have in evaluating whether a 2020 tax appeal might be appropriate, as well as what you might do in the next 6 months to enhance any appeal to be taken in 2021. As always, we will continue to look for creative options to assist you with your business and tax concerns in light of the ever-changing social and business landscape.

Please feel free to contact Brad Knickerbocker with questions.



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