Many of our clients have reported major increases in Douglas County’s preliminary 2017 property valuations. Diane Battiato, who heads the Douglas County Assessor/Register of Deeds office, is reported to have said in response to recent taxpayer concern, “I’m sure there is some sticker shock.”

Battiato reportedly indicated that the increases are countywide and due to two primary factors – a “hot” real estate market, and property parcels that had not been reassessed for several years. Several would disagree. Memories are fresh of new assessments last year due to the 7% state-imposed increase for many western Douglas County property owners. And in 2015, nine out of ten Douglas County parcels that saw a preliminary valuation change saw an increase in valuation as opposed to a decrease. That, when combined with some taxpayers this year seeing land values that have tripled, while others have seen decreases, leaves many to wonder what they can do to avoid paying more than their fair share of tax.

The answer? Protest the valuation.

The Process

Preliminary valuations were posted this month. If you have not looked at your preliminary valuation, go to http://www.dcassessor.org/valuation-lookup and search for your property. There you will see your preliminary valuation for 2017 and your parcel’s previous five years’ valuations.

If you disagree with your 2017 valuation, there is a three-level process for correcting it:

1. **Informal Meeting.** Contact the assessor’s office by phone at 402-444-6734 and set up an appointment to discuss the valuation in person with the county appraiser assigned to your property. Property owners have until February 10, 2017 to request a meeting, and the last day for meetings to occur is February 28, 2017. You may also contact the assessor by email or mail at valuationissues@douglascounty-ne.gov, 1819 Farnam St., Omaha, NE 68183 to set up your meeting and provide information for the county to consider.

2. **Board of Equalization Protest.** If the valuation remains unchanged after the informal meeting, you have the option to protest the valuation in June, 2017 to the Douglas County Board of Equalization (“BOE”). You can file a BOE protest regardless of whether or not you asked for an informal meeting. If timely filed, your protest will be assigned to a “referee” who is an appraiser hired by the County to meet with you and review your evidence in support of a lower valuation. The referee will make a recommendation to the BOE as to whether or not the valuation should change. After the BOE protest period is over, the BOE will take action on all of the protests that are filed, and notify the property owners of the outcome.

3. **Tax Equalization And Review Commission.** If the Board of Equalization protest is unsuccessful, the property owner has the option to go to file an appeal to the Nebraska Tax Equalization and Review Commission (“TERC”). You must have timely filed a BOE protest in order to file a TERC appeal. The TERC will eventually schedule your case for a hearing at which
time you will need to prove what the valuation should be, and that the County’s valuation is either arbitrary or unreasonable.

**Should I Take Action?**

Here are some good ways to think this through:

- **Does the assessor have it right?** Many are rightly upset when the assessor maintains a valuation for several years and then all of a sudden dramatically increases it. But we still have to ask if the new valuation is accurate because basing your argument solely on the big increase will not produce a win if the new valuation is nonetheless accurate. If the economic activity in your area suggests you could in fact sell your property for the new assessed value, you will likely have difficulty making a successful protest unless you have a different basis for challenging the valuation such as lack of equalization. This basis might apply if two similar properties in the same tax district are valued differently such that the assessed values are not equalized.

- **Do I plan to sell in the near future?** If you’re looking at selling your property, a higher valuation may (or may not) contribute to a higher selling price. Some might be of the opinion that taking action to lower your property’s taxable value could negatively impact your negotiation position if a sale is expected in the near future, so consider that dynamic if you plan to sell.

- **What is the math?** If the valuation is not right, and you plan to stay in the property for a while, do the math to figure how much money is actually at stake. You are paying approximately 2-2.7% in property taxes depending on where you are located in the County, so if your valuation went up by $100,000, your tax increase for the year would be approximately $2,000-$2,700. Should the valuation remain unchanged for several years in the future, the cost of not taking action to lower the value would include paying taxes on the higher valuation in years to come. For example, assume a homeowner’s property valuation goes up by $75,000 and the valuation stays there for 4 years into the future without any protests being filed:
  
  - $75,000 valuation increase x 2.2% tax rate = $1,650 tax increase x 4 years = $6,600 in additional taxes paid (assuming no change in the tax rate).

  Remember that in many cases, real estate property taxes paid are deductible on your income tax returns. This may be insignificant to many, but lowering your property value through the protest process may decrease your income tax deductions.

- **Will I Succeed?** At the meeting, you will need to demonstrate why the valuation is not correct. Information to bring to the meeting would be the following:
  - Recent purchase documents that show you paid less for the property than the assessed value.
  - A recent appraisal.
  - Recent comparable property sales from your neighborhood.
  - Current real estate listings for similar homes in your neighborhood.
  - Measurements in the event the physical dimensions the County has about your property are incorrect.
  - Photographs illustrating the condition of the property, in the event those conditions negatively impact the valuation.

**What About Using A Lawyer?**

We represent taxpayers every year in valuation disputes and have done so for years, however, a lawyer is not required to protest your taxes. Many property owners handle the informal meeting on their own and involve legal counsel when and if necessary at either the BOE level or the TERC level of the process. Others would rather have legal counsel represent them from the beginning.

For those looking for legal counsel to assist right from the start, an attorney can offer varying levels of assistance depending on your need, ranging from doing both (a) the research and (b) the advocacy, to just handling the advocacy based on the research you provide. You will want to do
the math as discussed above to know what a reasonable budget would be for legal fees for the project, keeping in mind that reducing your property tax valuation pays off not only in the current year, but can also pay off in the years after as well.

For those who desire to handle the research part on their own, consider:

• The Douglas County Assessor’s website has highly functional search capabilities that allow you to narrow in on comparable homes and look at assessments and sale data for similar types of homes in your area. Online real estate listings are also easy to access in order to see current homes on the market.

• Hiring an appraiser to appraise your property.

• Asking your real estate agent for a market analysis and comparable sale/listing information.

Taking one or more of these steps should enable you to put valuable information in the hands of your legal counsel so that he or she can go advocate for you at an informal hearing or at the BOE protest, on financial terms that make sense. Because the process of appealing your valuation to the TERC (level three as discussed above) can consume a great deal of time and money, getting the valuation right at the informal or BOE level is the quickest and most cost effective way to address the problem.

At Koley Jessen, we have helped numerous property owners save hundreds of thousands of dollars on their property taxes by assisting with county level protests and appeals to the TERC. Our assistance can be anywhere from merely helping you behind the scenes, to working with your in-house legal team, or to fully orchestrating the process. Whatever your need is, we can help you quickly identify and focus on the reasons why the county’s valuation may be wrong, set a reasonable budget for the work involved, and get to work on making sure the county gets it right.

Important Dates To Remember

February 10, 2017 – Last day to schedule your informal meeting.

February 28, 2017 – Last day for informal meetings.


June 1 - June 30, 2017 - Board of Equalization protests can be filed. This deadline is extremely important. Late filings are not allowed, and a protest that is untimely at the county level cannot be heard by the TERC or any court. Remember, a protest needs to be filed for EACH parcel of property that is disputed, so if you have multiple parcels, you must separately protest each one.

Should you decide to contact an attorney to help with your protest, Koley Jessen is happy to help. Please contact James Cann to start your process.

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