

The Tax Appeal Process: The Tax Representative's Role

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You've been there and so have I. You've done your homework and your level best to arrive at an appraised value that was fair, equitable, and reasonable—and yet someone had the unmitigated gall to question that value. That's called the tax appeal process, and each and every assessor participates in that process in one way or another.

Morgan Gilreath recently wrote an excellent article that appears in this year's March/April issue of the *Assessment Digest* entitled "The Assessor Is the Information Broker for the 21st Century." Morgan's dead on. We truly are information brokers. Whether we are assessors or appraisers we have information and we use it; and the more information we have, the more accurate we can be in arriving at the value we are seeking.

My purpose today is to discuss the ways in which the three of us (the appraiser, the assessor, and the tax representative) can work together to arrive at an appraised value that is fair, equitable and reasonable for use in the assessment process.

The Major Players And Their Roles

I participate in the appeal process as a mass appraiser working for the assessor. I establish values according to the rules, regulations, laws and constitution of the unit of government under who I'm serving. It is also my job to apply the three standard approaches to value to properties in the jurisdictions who hire me. Generally I follow the same basic guidelines that my employer, the assessor, uses.



Our second player, the assessor, has a very clear role. The role of the assessor is to gather the maximum amount of available information about every parcel of property that exists within his or her jurisdiction. This includes information about property sales, income, expenses, costs of construction and all of those things that are the assessor's stock and trade.

Now let's discuss our third player—the tax representative. A tax representative can be either an individual or a firm specializing in appealing either real property or personal property values. The tax rep operates on either a contingent fee or a fee-for-service basis. Regardless of the payment method, ultimately an ethical tax representative's goal is the same as the assessor's and mine: to assist in determining a fair market value for a specific property.

The Assessor's Standard

In Ohio, where I'm based, we have two assessment standards. One for the assessor and one for the appeal process. The assessor's standard orders the assessor to determine value by using *all available information*. These are powerful words that have a very precise meaning. This standard says that the assessor (or myself as the assessor's appraiser) must arrive at a reasonable estimate of fair market value by using only the information that's readily available.



What the standard also tells me, by omission, is that I cannot arbitrarily compel property owners, lessors, lessees, or other individuals who are part of the real estate market to provide information to me. And there's one more piece of bad news: If I am unable to find enough information to make a reasonable estimate of value, the assessor's standard does not let me off the valuation hook by allowing me to say "*I don't have enough information to determine value.*" I must determine a value based on whatever limited information is available to me. This valuation standard is dramatically different from the appeal standard under which fee appraisers and tax representatives function.

The Appeal Standard

When it comes to the appeal process, most laws state "*values shall be determined from all information.*" That is a very different standard from the assessor's. The appeal standard basically says that I, as the person representing the appealed property, have the right to substantially more information than I had prior to the appeal. It implies that I can expect to obtain and use things such as income, expenses, rental payments, and so on, to assist in refining my estimate of value.

These standards are both very different and very important but a great many individuals do not understand them. Well, what does all of this have to do with the tax appeal process and, more specifically, with the tax representative?

The Role Of The Tax Representative



The role of the tax representative, in my view, should be as clear as possible. He or she exists to provide the assessment process with the detailed information that was not readily available at the time of the initial value determination but that is vital to an accurate property valuation.

Let's assume, for a moment, that we are valuing a five-year-old 150-room upscale budget hotel. A conscientious tax rep will provide me with:

- three years' room and occupancy rates;
- three years' income and expenses; and

- the estimated (or actual) cost of construction, either of the unit under appeal and/or of similar units that have been built under similar economic conditions and in similar jurisdictions.

When a tax representative generously and openly provides me with data from his or her files and past experiences, or from his or her knowledge of the client and his or her relationship with that client, we are all better off. The more precise and in-depth the assessor's information is, the more accurate the values can be. And when the values are accurate, the entire process becomes more fair. When we are forced to use the assessor's standard because we are denied complete, accurate information, then our values have the potential of being significantly less accurate

In other words, a tax representative can be a tremendous asset to the overall process if they are thorough, ethical, and if they believe their job is the same as ours: arriving at a fair and reasonable value.

Two Extreme Examples

I know a gentleman who's been representing shopping center owners for over 20 years. We'll call him Fred. Whenever Fred calls I stop and listen because he only calls when there's a good reason (plus there's always the likelihood that I'll add to my knowledge fund). Fred is always prepared with income data, expense data, comparable sales information and he has researched the market. He can tell me what is happening in that market, what the competitive situation is and will be over the next five years, and he willingly provides me with not only the information that I am asking for, but anything else that either he or I feel is appropriate to the valuation process.



During our association I have independently confirmed Fred's information. I have never found it to be wrong, slanted, or different than the truth. It is always straightforward, factual, and a fair representation of the information. We do not always agree, but I will tell you that we certainly arrive at a value that is fairer and more reasonable than values that are determined in any other manner.

Another individual I frequently deal with, I'll call him Sam, represents a variety of properties. I find he does his very best to provide fear, uncertainty, doubt, confusion, and information that is less than fully accurate. Sam slants his information to imply that, if a tax reduction is not soon granted, then the industry will be forced to seek a different, more favorable, location.

Professionalism Is The Key



The assessor, the appraiser, and the tax representative are all professionals. As professionals we are expected to follow USPAP standards. None of us can advocate a particular point-of-view—regardless of who's signing our paycheck. Our job is to be impartial, fair and equitable. We are the people in the white hats.

A problem arises when one of the parties elects to abandon his or her prescribed role in the assessment process and adopts the role of advocate. Now an advocate has a point-of-view he or she wants us to accept regardless of its degree of correctness. This is where the friction comes between the assessment process, the assessor and the tax representative. In our industry, it is unfortunate that a number of the practitioners have never been anything but advocates. They very clearly believe it is their job to get a tax reduction regardless of what the facts of the matter demonstrate.

Tax representatives are no different, in many ways, than assessors. There are some truly outstanding and excellent human beings dedicated to the finest principles in the standards of our profession. Unfortunately, there are some at the opposite end of that spectrum. The vast majority fall somewhere in the middle. Our job, as assessors, is to be able to properly classify those individuals and to use their data appropriately.

Authority = Responsibility

It is your job as the assessor (or the assessor's appraiser) to make a determination about both the tax representative's ethical stance and the validity of the information you're given. It is your job to use the information that, in your best judgment, represents what is fair, reasonable and equitable within your jurisdiction's definitions of value.

Assessors and their appraisers never lose either the authority or the responsibility relative to the assessment of values. It is our responsibility to determine the value of a parcel of property independently and from all information that we can reasonably uncover. A professional, ethical tax representative can be a tremendous asset in this process.

