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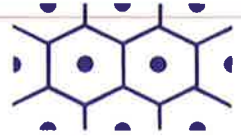

newsletter

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Update

We have not been able to provide our usual prompt service to some clients over recent months. We apologize for this: it resulted from an unusually high workload. We are glad to report that things are now getting back to normal and we, and our computer, are once again standing on guard for thee (with sleeves rolled up, naturally).

And now ....

The trees have burst into blossom and leaf, the sun beams down (part of the time),blue waters dance and laugh in gentle summer breezes, and ... it's reassessment time again in Nova Scotia. Henceforth, at three yearly intervals those trusty servants of the Department of Municipal Affairs, the assessors, are to make public their estimate of the actual cash value of each property in the Province.

"Cash Value" - what is it?

The Assessment Act defines cash value as "the amount it would realize in cash if offered at auction after reasonable notice". Since the most usual reason for selling by auction in the Province is for reasons of forced sale, eg: tax sale, sheriff's sale, etc., the Courts have interpreted "cash value" as being synonymous with "market value". This in turn means "the amount that would be paid for the property if it was sold in the open market by a willing seller to a willing buyer".

Uniformity - if you can't be correct ... be consistent

The Act also adds this lettle gem to its definition of actual cash value: "in forming his opinion the assessor shall have regard to the assessment of other properties in the township or municipality so as to ensure that the taxation shall fall in a uniform manner upon all real property in the town or municipality". All of the properties in the Province were valued (in theory) in their actual physical state when the rolls closed on the 31st December, 1980 at *the value levels which pertained on the 1st January, 1980.*

Not so simple servants!

This is the second reassessment undertaken by the Province since it assumed the responsibility for the assessment function from the municipalities. Despite all the hoopla and politicking which has surfaced in the media, the Province, in our experience, does appear to be making a reasonably determined effort to get it right. Rome wasn't built in a day of course, and there have been some painful readjustments in some areas where properties were badly underassessed in the past. This is causing considerable problems for many businesses and property owners who budgeted their 1981 fiscal year on an estimated 10% to 12% inflationary increase over 1980, not realizing that their properties were previously underassessed. However, the end result should be a more equitable distribution of property taxation and, in fairness, assessors must be one of the few civil servants who actually attract brickbats by attempting a conscientious job.

What has become apparent is that some assessment departments are developing a very professional approach to their job. Gone are the days when bluff and bluster were sufficient to win an assessment appeal. (Not, of course, that *we* ever resorted to those tactics ourselves).

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It is now necessary to have a well prepared case solidly based on fact to successfully contest an appeal, particularly in the Cities of Halifax and Dartmouth. As became evident last year, the Department of Municipal Affairs can call on the able assistance of the Attorney Generals Department's legal staff. The Provincial lawyer assigned to deal with assessment work last year showed no compunction in asking for all previous appraisals on the property whether prepared for mortgage, sale, etc., just to check that there was no slip 'tween cup and lip, as it were.

Income Properties - then and now

The Reproduction Cost Approach was, and still is, the favourite tool of the assessor. It's so simple that even the Courts can understand it (most of it anyway). The land value is added to the building cost, the latter having first been depreciated for physical, functional, and locational obsolescence. Unfortunately, it doesn't work very well for income (rental) producing properties; the purchasers of which tend to be hard nosed individuals interested in such esoteric things as cash flow, rate of return, and so on. There is an increasing tendancy now for the assessment departments to utilize the Income Approach instead (or as well as) on properties such as office buildings, shopping centres, etc. This has the happy affect of more closely matching the assessment to the market value in those cases where the buildings are leased at full market rentals. Unfortunately, where the buildings are subject to leases which are below market rents, it does result in the assessment being higher than the market value of the property. The more onerous the lease to the landlord, the greater the discrepancy between the assessment and the market value.

Business Occupancy Assessments - then and now

Many of the assessment departments have changed the way they apportion the Business Occupancy Assessments in a multi-tenanted building. The Occupancy Assessment is simply a ratio (25%, 50%, 75%) of the Realty Assessment. The applicable ratios differ between property types and are specified in the Assessment Act. A restaurant building, for example, with a Realty Assessment of $500,000 will have a Business Occupancy Assessment of $125,000 (i.e. 25% x $500,000). In case of a multi-tenancy building the Business Occupancy Assessment used to be pro rated on a floor area basis. In the case of rental properties it is now generally pro rated on the basis of the market rent that could be generated by each tenant space.

Leasehold Improvements

In the case of rental properties the assessment departments add the value of leasehold improvements (carpets, partitions, etc.), paid for by the tenant, to the capitalized rental value of the building. Thus, the landlord actually pays his/her realty taxes on improvements undertaken by the tenant. There appears to be some dichotomy between the various assessment regions as to the best method of calculating the value of the leasehold improvements. Some (perhaps all) assessment departments treat them as a depreciable item. They calculate the cost new at the appraisal date (January 1980) by factoring up the original cost using a building cost index. Some departments then simply depreciate them on a straight line basis, having regard to their age, and add this depreciated cost to the building value. Others convert the depreciated value to an annuity, add it to the rental income, and then capitalize the total at an appropriate rate of return.

The subject of leasehold improvements is somewhat contentious, since some (perhaps all) will be removed at the end of the lease. Most office leases are for 3/5 years and Revenue Canada allows the tenant to depreciate their leasehold improvements over the term of the lease, plus one renewal term. So far as we are aware, the Assessment Departments do not, as yet, follow this rule.

Have a good summer.