

PROPERTY TAX CASE STUDY ON THE LEVEL

Homco Realty's Challenge

Less than a year after acquiring 1741 Brunswick Street, Halifax, the owners, Homco Realty, were slapped with an 18% increase in their Realty Assessment. It placed them at a substantial competitive disadvantage to other office buildings, including HRM's trophy office complex Purdy's Wharf. Homco Realty were on the horns of a dilemma: their 2001 Realty Assessment was \$5,555,300, but they had purchased the property in April 2000 for \$7,400,000. The Assessment Act stipulates that the Realty Assessment has to be based on the property's market value two years prior to the taxation year. Homco Realty turned to Turner Drake for help.

Turner Drake's Approach

The Nova Scotia Assessment Act contains a "uniformity" provision mandating that properties have to be assessed in a uniform manner. Case law had established that this should be achieved by first ascertaining the "General Level of Assessment", calculated by dividing the aggregate realty assessments for those commercial properties which had sold two years prior to the assessment year, by the sum of their sale prices. Individual realty assessments are then calculated by multiplying their estimated market value by the General Level of Assessment. The provincial assessment authority, Service Nova Scotia (SNS), insisted that this calculation was unnecessary because the General Level of Assessment was 96%, close to the 100% level. Turner Drake suspected that SNS were cooking the books. Because the case was set down for a hearing before the Utility Board, Turner Drake were able to get details of the relevant 225 sales from SNS. Turner Drake painstakingly investigated the circumstances surrounding each sale. They discovered that SNS had discarded sales where the purchaser was "a pension plan", a "national purchaser", or a "REIT" purportedly on the grounds that these purchasers were so lamentably lacking in sophistication and local knowledge they "paid too much"! SNS had also disqualified sales likely to have been appraised using "discounted cash flow": by definition this disqualified virtually every office building sale in HRM. The Utility Board in accepting Turner Drake's evidence referred to SNS's action as a "systemic error" and scathingly concluded that "while the Director (of Assessment) not surprisingly appears content with a claimed level of assessment which is close to 100%, one of the ways the Director achieves this result is to automatically exclude sales which would otherwise lower it".

Winning Results

The Utility Board reduced the Realty Assessment to \$5,105,300, yielding an immediate tax saving of \$26,902/annum to Homco Realty and the occupiers of 1741 Brunswick Street.

