MARYLAND OUT-OF-CYCLE PROPERTY TAX APPEALS:

THE TIME TO ACT IS NOW

Across the country, landlords are reporting rising vacancies and collection losses as the financial impact of the COVID-19 pandemic on commercial real estate (CRE) fully manifests itself. Both credit and "mom and pop" tenants are not paying their rent because they are either closed, operating with a reduced staff, and/or their online sales are insufficient to justify brick-and-mortar rent. Some are taking advantage of this situation to renegotiate leases, stopping all rent payments, making partial payments based on actual retail sales or revenue, and/or filing for Chapter 11 protection, so they can formally reject their leases and start over or close unprofitable locations. Even large, profitable corporate tenants are taking advantage of the current crisis to re-evaluate and reposition the relationship between the products and services they offer and the locations where they provide these services. For many tenants, rent is a lower-priority expense.

Many landlords are, in turn, not making their mortgage payments because they are not receiving rent or any income from their properties. Accordingly, such loans are being declared delinquent and are placed into "special servicing" as an initial step toward foreclosure. Many CRE borrowers are trying to renegotiate loan terms or are agreeing amicably to receiverships and/or granting deeds in lieu of foreclosure back to their lenders. Most lenders, however, do not want these failing CRE properties back.

As the major CRE properties are shed or become unprofitable, supply is overwhelming demand for those liberated premises and the properties within which they are housed. This imbalance in basic supply and demand should drive down CRE values in many markets for the foreseeable future. Some will never recover and will need to be repositioned. The overbuilding of retail space, office buildings, and hotels in certain major markets is coming back to roost. It is beginning to feel like 2007 again, except there is much less leverage backing these deals. Mass dumping of CRE that fueled the 2008–2012 recession is unlikely to reoccur, but that does not mean that this is not going to be painful for many CRE owners.

This is the real-world impact of the pandemic on CRE—so far in 2020. How long it will last depends on an effective vaccine and when enough of the population gets vaccinated or infected to curtail the virus and create herd immunity, likely another year by current best estimates. By then, CRE may be fundamentally changed with a complete rethinking of the viability of doing business virtually or online. The need for office space, hotels for business travel, etc. is now up for debate. Of course, there will be some winners from this new paradigm. For instance, data centers that store downloads and streaming as well as industrial properties that support the supply chain should do well.

The good news is that your property taxes will be going down, right? Well NOT necessarily. It all depends on YOU.

As a general rule, if a property owner's assessment is flawed, it can be appealed and reduced through the multilevel appeal process to reflect its true fair market value. Such a timely appeal will mitigate inflated real property taxes based on the flawed assessment. Unfortunately, most local property tax assessors are in denial and/or under political pressure to not give reductions even when appropriate. Their political masters are very aware that with little or no sales and use tax being paid into local coffers, property taxes will have to fund most city and county budgets. The message is clear:

delay the fiscal impact from reducing real property taxes as long as possible. Thus, many local assessors are relying on the technical argument that January 1 is the value date for assessment purposes and that anything occurring after that date, which adversely impacts real property values, needs to be addressed next year and thereafter.

Nowhere is this more egregious than in Maryland. If you own or manage CRE in Maryland, you need to understand the following:

Maryland's real property assessment and taxation system works on a triennial (three-year) cycle. Every Maryland property is revalued only once every three years. Once a new triennial assessed value is enrolled, that value is set for the next three years. Any increase in the new assessment over the last cycle is phased in over the next three years in one-third increments. If there is no increase from triennial to triennial (or a decrease), the new assessed value will be used for each year without a phased-in approach. There is a right of appeal associated with the issuance of a new triennial assessment. The appeal must be made 45 days from the date of the new assessment notice, which is typically mailed the last week of December.

2021 In-Cycle Appeals

If your Maryland CRE property will have a new value at the end of this year for the next 2021–2023 triennial assessment cycle, you need to plan to appeal it in a timely manner. It will probably not reflect any sufficient adjustments for the negative impact of COVID-19. These are called in-cycle appeals, and they must be filed in mid-February 2021. Check your assessment notice for the actual date.

2021 Out-of-Cycle Appeals

The same is true if you have a pending appeal that was filed in 2019 or 2020 and is not yet resolved. Money may be left on the table if you try to settle future years at the same time as current and past years. An out-of-cycle appeal needs to be filed to mitigate your 2021 property taxes and beyond. You cannot rely on any ending appeal(s) to do so. Only a year-end out-of-cycle appeal will reset the value date to January 1, 2021 and, therefore, bring COVID-19-related issues into play. It will also automatically sever itself from any pending appeals. If you elected not to file in 2020 and if still out of cycle, you can file in 2021.

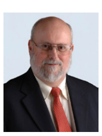
For the Maryland properties last assessed in 2019 or 2020, it is crucial for owners to **start planning NOW so an appeal can be submitted as soon as possible, well in advance of the December 31, 2020 deadline.**

Ryan can proactively engage with the local assessors to educate them of any negative issues affecting your properties before they issue their new 2021–2023 triennial assessments.

Benchmarking an appropriate target value for 2021 is going to be tricky in Maryland because it needs to reflect all of the external impacts of the pandemic. Access to national data and a large local data bank will be critical to a successful appeal for the entire 2021–2023 cycle. As the largest real property tax practice in the United States, Ryan can help, and our local Maryland experts are available for a free consultation. Our experienced team of professionals practices in every Maryland county and is familiar with the local market and each county's nuances. We developed a proprietary and unique strategy related to the impact of COVID-19 on property value to maximize tax relief for both in-cycle and out-of-cycle Maryland appeals.

Technical Information Contacts

Please contact one of Ryan's Maryland property tax experts for a complimentary discussion of your 2021 Maryland property tax issues.



Michael Allen
Principal
571.481.9400
michael.allen@ryan.com

Cutchin Powell
Principal
202.470.3094
cutchin.powell@ryan.com

Steve Thompson
Principal
202.470.3102
steve.thompson@ryan.com

Ted Haran
Director
202.262.6934
ted.haran@ryan.com

Michael Owen
Director
571.289.5699
michael.owen@ryan.com

Shawn Eskow
Senior Manager
571.481.9427
shawn.eskow@ryan.com

Ryan®

For additional information
1.855.RYAN.TAX
ryan.com