

Tax appeals may combat the inflated property values of marinas



In today's volatile marketplace, marina owners should know the market values of their businesses, even if it proves a tax appeal is unwarranted.

BY JOHN SIMPSON, MAI

Over this past decade, marinas across the country have seen large increases in their taxes. The only operating expense that has increased by a comparable amount is insurance. Even if profits for some aspects of a marina's business have grown substantially over the last decade, many marinas have seen those profits recently slipping away. As the assessed value of marinas has increased, so too have their taxes, putting a strain on business operations. Therefore action is required in the form of a tax appeal.

Assessed marina value

Most marinas usually do not have a high level of development. Most of their value is in their land, and many assessors are now basing their assessments of marinas on the potential value of the land. In many cases large waterfront residential developments have raised land values sky-high. A very large fiscal difference exists between operating a waterfront business and developing multimillion dollar ocean view residences. This is why these land assessments are a prime target for a tax appeal reduction.

Assessors throughout the country have a daunting task—assessing a large number of properties in a short period

of time and using statistical models to determine values that vary from jurisdiction to jurisdiction. Assessments on the same property type can even vary between assessors. After all, it's essentially an opinion-based business.

Because very few marinas are alike, they fit poorly into statistical models. Assessments of these businesses that rely on data similarity have the potential for error. Assessment mistakes that over value a property may not matter very much when property values are appreciating at a rapid rate. However, when property values drop, as they have in most markets, the error becomes glaring. That's when it may be time to appeal.

A marina's worth

The start of every tax appeal begins with the assessed value. With a huge increase in marina listings, it's easy for marina owners to judge the fairness of an assessment by looking at a nationwide commercial broker listing service, such as www.LoopNet.com or www.CoStar.com. At the latter, marina owners can purchase sales data specific to an area and type of marina.

The acquisition of sales data can be a very inexpensive way to approximate whether or not an assessment is realistic. Sales data can cost anywhere from \$100 to \$500 depending on how much

data is needed to make a judgment call.

The tax assessment office can also provide local marinas with sales figures, but these figures offer little detail to make comparisons.

The tax appeal team

If a marina believes that its business is being unfairly assessed, it can file a tax appeal with the assessor. However, the days of having an individual file a tax appeal and win a reduction at the tax board level are gone. Marina owners can represent themselves, but fewer decisions are being made at the local board level, and many end up in tax court. The burden of proving that the assessment is incorrect lies with the taxpayer, whose case needs to be strong and organized, which is where the tax appeal team comes in.

In filing a tax appeal, marinas, boatyards, and storage centers should consider hiring a tax consultant, someone who specializes in filing and negotiating tax appeal reductions, or an attorney to follow established hearing protocol. Tax consultants get paid only when they win a case, and most attorneys work similarly.

Marina owners facing tax court will also need a commercial real estate appraiser with experience in appraising marinas. In order to receive a state appraisal license, appraisers must fol-

low professional standards, which note that the appraiser's compensation cannot be tied to the outcome of a case. Appraisers cannot represent owners in court, but they can be important expert witnesses for the case and should be paid in full prior to testimony.

The tax appeal process

To start the process, the owner's consultant or attorney files the appeal form and sets a hearing date before the tax board. It is important to note that tax appeals can be filed for more than one year. Many jurisdictions allow filings for up to three years on one appeal form.

At this stage, it may be wise to hire an appraiser to perform an appraisal. Although some marinas resist an appraisal at this point due to its cost, it will tell the marina if the case is worth the time and effort to move forward. Also, a professional appraisal may give owners negotiation power to get an assessment reduced without further court action.

There are two types of tax board hearings: formal and informal. In the formal hearing, the plaintiff and his representatives present their case, and the assessor rebuts the plaintiff's argument. Often times the plaintiff will rebut the rebuttal. All of this is done with little or no dialog between the assessor and the plaintiff.

At an informal hearing, the assessor and the tax board members sit down at the same table and discuss the issue. The plaintiff should know the specific rules of the assigned hearing because how the case will be presented differs depending on the type of tax board hearing.

Some tax appeal court cases get settled at the board level. If the plaintiff doesn't get a satisfactory reduction, the next step is State Tax Court. Consultants will have an attorney on staff, or a relationship with one to represent owners in court. At this point, if the plaintiff did not initially hire an appraiser, he will need one now.

Cost savings

Although no one can guarantee how much a tax appeal will save a business, it is possible to estimate if a tax appeal is justified or not.

The first way is to analyze the num-

Potential Tax Savings Calculation

Real Estate Assessment & Taxes	2007	2008
Assessment	\$7,100,000	\$7,100,000
Tax Rate/\$100	\$1.40	\$1.43
Real Estate Taxes	\$99,400	\$101,530
Appraised Value		
Appraised Value	\$3,300,000	\$3,300,000
Reduction (settled)	\$4,000,000	\$4,000,000
Assessment Reduction	44%	44%
Gross Tax Savings		
Real Estate Taxes (above)	\$99,400	\$101,530
New Taxes Owed	\$56,000	\$57,200
Gross Tax Savings/Year	\$43,400	\$44,330
Total Gross Tax Savings		\$88,030
Expenses		
Attorney Fee (20% of savings)		\$17,606
Appraisal Fee plus testimony		\$12,000
Total Expenses		\$29,606
Net Tax Savings		\$58,424

bers. For example, I was recently involved in a case, in which the owner received a refund check for \$88,030, paid \$17,606 to the attorney and pocketed a net \$58,424. The total time invested by the owner was about a day. That's \$7,303 per hour! In addition, future assessments for that owner may also be lower due to the win in court, and the assessor may be less likely to raise the assessment level and spur another challenge. See the chart on this page for a detailed example of a tax appeal's potential savings.

No appraiser can guarantee an outcome, but if done professionally, the potential savings can be estimated. Always keep in mind that even if a plaintiff hires an appraiser, the appraisals must remain neutral and follow market value in order to maintain credibility before tax boards and in court. Appraisers can only defend a market value that is based on logical conclusions drawn from market data, whatever direction that may take the appraised value.

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Although the vast majority of the marina appraisals do show a tax appeal is warranted, one has to remember that this is not always the case.

Conclusion

Appealing a tax assessment can be a way for marina owners to lower operating expenses and improve cash flow. Unlike cutting costs, a tax appeal can result in a sizeable cash infusion from the government. A lower tax assessment can also translate into a higher net operating income and a higher market value should the owner decide to sell or refinance. Because it can take up to a year or sometimes longer to go through the process, marinas should plan ahead and let the experts do the work. ↓

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