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Concentrating in Real Estate Taxation Matters

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2009 Reassessments: Focus on Proposed *Market Value* Increases

The 2009 Cook County reassessment notices do not set forth the underlying Assessor's market value of non-residential properties. The notices only state the prior 2008 assessed valuation and the new proposed 2009 assessed valuation. In many instances there does not appear to be much difference between these numbers. Digging a bit deeper, reading between the lines, generally reveals a substantial increase in the Assessor's market value although no such market value increase is justified in these difficult times. In addition, in many areas of the city, there have been dramatic assessment increases as well as market value increases. For commercial and industrial properties the assessment factor is 25%. For multi-unit apartment buildings over six units the factor is 16%. Dividing the assessed valuation by the appropriate 25% or 16% number reveals the market value upon which the assessment is based. For virtually all of our client's properties we have found no basis for these market value increases. The data we have accumulated for our clients should give rise to substantial reductions of the proposed market values of their properties which in turn results in substantial tax savings.

First Installment Cook County Tax Bills Now 55% of Prior Year May Cause Lenders to Mistakenly Increase Tax Escrows

Beginning with the issuance of the first installment 2009 tax bills payable March 1, 2010, these estimated bills will now reflect 55% of the prior year's tax bill, rather than 50% as in the past. This change represents an attempt to ease the "sticker shock" resulting from second installment tax bills increasing dramatically because of reassessments. It is important to realize that this change may result in confusion with lenders holding real estate tax escrows. If a lender receives the first installment tax bill and calculates it as half of the prior year (rather than as 55%), it could conclude that it is holding insufficient funds, and may attempt to upwardly adjust the escrow amount to compensate. Such a recalculation is unwarranted.

What is "Charitable" for Purposes of a Property Tax Exemption? The *Provena Hospital* Litigation

Perhaps the most anticipated property tax case in a generation is now playing out before the Illinois Supreme Court, *Provena Covenant Medical Center v IL Dept of Revenue*, argued on September 23, 2009 (view the oral argument at <http://www.state.il.us/court/Media/OnDemand.asp>). Certain types of properties have specific statutory exemptions from property taxes, such as schools and cemeteries. Hospitals and other care facilities do not. They are exempted under the general "charitable" exemption. In *Provena*, the issue before the Court is: how much charitable care must be provided in order to meet the statutory charitable standard of "exclusive use of the property for charitable purposes" In this case, the Appellate Court sided with the Illinois Department of Revenue in denying the hospital's exemption, noting that in the year in question only 0.7% of the hospital's total revenue went to charitable care. Among the issues the Court is wrestling with are: Is a simple percentage test enough to deny an exemption? How does uncollectable billing factor in to the equation? What about delayed or reduced Medicare and Medicaid payments? Offsite charity? As the future implications of the Court's decision may be significant, for hospital care and charitable exemptions in general, Schmidt Salzman & Moran, Ltd. is watching this case closely on behalf of its tax exempt clients.