



GUILFORD COUNTY 2012 PROPERTY TAX REVALUATION: WHAT TO EXPECT, WHAT TO DO

At our Annual Meeting in January TREBIC heard from an expert panel on Guilford County Property Tax Revaluation: What to Expect, What to Do. Panelists were Guilford County Tax Assessor Ben Chavis; Debbie Winters - TREBIC member, Partner in Colvin Sutton Winters & Associates Appraisers and Newly Appointed Member of Guilford County Board of Equalization & Review; Brian Pearce - a TREBIC member and attorney with Nexsen Pruet who has litigated tax assessment matters; and Jeff Deal - a Past-Member of Guilford County Board of Equalization & Review. Here's what we learned:

Under NC Statute counties must revalue real property at least every 8 years, and 2012 is Guilford County's year. The Tax Department's 13 certified Real Property Appraisers have assessed its 164,000 Residential Parcels and 44,000 non-residential parcels and plans to mail notices of the new assessed values in early March. IN an effort to do as accurate as job as possible, they have used an array of state-of-the-art technological tools and performed detailed analysis of 2500 neighborhoods (v. the usual 300). Still, due to the state of the real estate market, appeals activity is expected to be heavy and the 2012 Tax Base will probably not be fully settled out until the fall.

By law, properties must be assessed at Market Value, meaning the most likely price that the property would sell for recognizing current use as well as its potential use, with a willing buyer and a willing seller, both fully informed and neither under any pressure to buy or sell. While assessed value typically starts at 100% of market value in a revaluation year, it generally drops over the course of the next 8 years as market values rise. For instance, assessed value of Guilford County properties was only 80% of market value right before the last revaluation. But because of the current recession, 2011 assessed values were actually 3.7% higher on average than market value. This gap, however, is not nearly as wide as in some parts of the country that experienced dramatic real estate "bubbles". So the Tax Director predicts only minimal sticker shock for owners, with no extreme value fluctuations. But it is possible that overall, assessed value may be down from the 2004 assessed value, so the Revenue Neutral Property Tax Rate may increase.

APPEALING YOUR ASSESSMENT: The revaluation notices to be mailed in early March will include a form to use if owners disagree with assessed value. Answers to questions can be found on the department's FAQ website (<http://countyweb.co.guilford.nc.us/government/departments-j-to-z/tax-department>), by emailing taxreval@co.guilford.nc.us, or by calling 641-4814. Steps for appeal include an informal appeal with the staff (where you should start), followed by successive formal appeals to the Guilford County Board of Equalization and Review (BER), the NC Property Tax Commission, the NC Court system.

Valid reasons to appeal include that assessed value exceeds actual market value; assessed value is not an equitable assessment with comparable properties; or a factual mistake has been made (e.g. inaccurate square footage). While it may be tempting to complain, you won't get an adjustment based on inability to pay, the amount of the increase, the fact that assessed value is higher than the construction cost or insurance value or that it is just too high.

Drawing on his recent experience on the BER, Jeff Deal pointed out that because adjustments are not retroactive, it is better to appeal during the revaluation year rather than a later year so you get the most financial benefit from an adjustment. First, look at the department's Schedule of Values and make sure there were no inadvertent errors made by staff in applying that schedule to your property. If you are considering appealing income-producing property, is it likely that the department did an informal

Income Approach proforma while assessing the property, so be sure to ask for a copy of that from their file and review it. If you can't get satisfaction at the staff level and want to file a formal appeal with the BER, understand that BER members hear a huge volume of cases: one every 10 minutes, all day long (6-8 days throughout the year during a normal year, more during a revaluation year). So the more you can do to differentiate your case from others the better. You will want to make a practiced, coherent, well organized presentation, preferably with graphics and a hand-out that gives them your points, comparables and numbers in writing – don't count on BER members to remember it all themselves or capture it all in their own notes. One strategy he's seen used that generally falls flat on its face is an attempt to demonize tax department staff. While staff may not bend over backward to cater to the appellant's every need/want, belaboring that makes the board members' eyes glaze over, particularly since the board members spend so much time working with those staff members, and see them not as bureaucratic monsters but as fellow humans. Also, if you own investment properties, like apartments and retail centers, after notices go out you may get letters from "tax agents" offering to appeal your case on a contingency basis. Some of these agents simply use the same documentation that the tax department uses and just apply a different CAP rate to it, so be very sure you fully understand how an agent plans to approach your case if you are considering using one. An owner substantiating the difference between their property and surrounding properties with documentation can be more effective than that approach. And finally, it seems the NC Property Tax Commission has more latitude in making decisions than the local BER, so don't automatically assume that if you lose at BER it's not worth it to hire an attorney and go forward with a state appeal.

Debbie Winters advised us that an appraisal can be utilized in the appeal process, and should be based on current market value as of January 1, 2012. Sales of comparable properties should include only arm's length transactions; if distressed, foreclosure or bank owned properties are considered, appropriate adjustments must be given. Owners and/or property managers can verify basic information, such as acreage, square footage, etc. For example, if a building addition was completed, make sure the assessor's information accurately reflects the current data. And while the assessor's office will primarily utilize the sales comparison approach, the Income Approach can be utilized in addition to the Sales approach (market comparables) for an appeal.

Brian Pearce offered all of the following information on the appeal process: The first avenue for appealing a "new" value is to contact the Guilford County Tax Department directly and ask for an informal meeting. The tax department is already notifying the citizens it speaks to that it would rather be contacted by e-mail or regular mail than by phone. If you do choose e-mail or regular mail, be sure to follow up if you don't get a prompt reply. Many appeals are resolved at this staff level.

If the informal process does not work, a property owner can file a written notice of appeal with the BER, which must be filed "before the BER adjourns for the year", a date that has not yet been announced by the tax department. The hearing before the BER will be informal, meaning the testimony is not sworn and the rules of evidence do not apply. But, the property owner should attend and be prepared to argue the case, showing evidence that the assessment does not accurately reflect fair market value. If the BER does not satisfy you, the next step is to appeal to the NC Property Tax Commission, which must be postmarked by a US Post Office (your office postage meter doesn't count) within 30 days after the BER notice is mailed to the property owner, or on the day the Property Tax Commission actually receives the notice if it is not post marked by the USPS. If the notice of appeal is not received within the required time period, it may be automatically dismissed. If the notice of appeal is received on time, the Property Tax Commission will provide a form AV14 (Request for Hearing), which must be returned to the Property Tax Commission within 30 days of its mailing. The form AV14 can only be completed by the property owner or an attorney licensed in North Carolina.

Once the form AV14 is filed, it is typical that there will be a lengthy delay before the matter is actually set for hearing. During this time, the parties can serve each other with written discovery. A party can also ask the Property Tax Commission staff to arrange and informally mediate an informal meeting with the local

tax department. When the matter goes to hearing, the hearing will be quasi-judicial, meaning testimony will be sworn and the North Carolina Rules of Evidence will apply. There will be a presumption that the assessment is correct. This presumption can be rebutted though, by the production of material, substantial, and competent evidence that tends to show that either an arbitrary or an illegal method of valuation was used and that the assessment substantially exceeded the true value in money of the property.

If the property owner does not get the relief they sought from the Property Tax Commission, the property owner then has a right to appeal to the North Carolina Court of Appeals. This appeal must be filed within 30 days of entry of the final decision by the Property Tax Commission.

There is also an immediate right to appeal to Superior Court if the property owner alleges that the tax that was imposed was imposed through clerical error, was an illegal tax, or was levied for an illegal purpose. These cases are rare, but the relief is available if the facts are in place.

All in all, a property owner can appeal a property tax valuation through several levels in an effort to get a fair value assessed to their property. However, throughout the process, the property owner should keep in mind they must present meaningful and competent evidence to support their case and must comply with the time frames and rules discussed in this article in order to ensure they have a chance to be successful in getting the value they seek.