

## Commercial Real Estate Valuations II

*By Peter R. Barbieri, Esq.*

The declining commercial market and the resulting limited number of commerce sales over the last few years have made the job of Boards of Assessors in establishing commercial valuations very difficult. At least every three years, the Board of Assessors is required to conduct a full review of values and to adjust values based upon sales price. In the recent past, many towns have made annual adjustments, but due to limited sales, many towns have not made adjustments to commercial values. It is therefore important that commercial property owners review their property record cards to ensure the accuracy of the data. Any change in value would be based upon the data on file, and any increase in value would be artificially higher if the data, for example, reflected more square footage than actually exists.

Most market analysts reported that for 2011, commercial values were generally stable or declining. An exact determination of your value is based upon the location of your property. Smaller communities may have a limited supply of commercial space, thereby creating a stronger market and higher values. Market analysts, however, generally identified 2011 as another year of lower rents and high vacancies for increased landlord concessions. These factors may be more important than actual sale price in determining your property value, as these changes may reflect market conditions more than the price that a property sold for in 2011 (analysis year for fiscal year 2013 values).

Even though there may have been no determination in your community to change values, it is important that commercial property owners analyze the data on file with the city or town to ensure that the valuation is properly reflective of the property's value. The willingness of a buyer to pay a fair market price is dependent upon not only the availability of reasonable financing, but also the income and expense applicable to the property. Income and expense analysis is generally used by the Board of Assessors in determining the value of the commercial property, and sales prices are used to confirm the valuations.

Reviewing information is easy for residential properties where Property Record Cards are public information and list the square footage, grade and condition of the home, but many towns do not release to the public the financial information (income and expense report forms) used to determine the value of a property. Therefore, confirming how the town values your property takes a little more work, like reviewing records at the town hall rather than online. As the owner of your property, you are entitled to all the information the town has on the property; you just have to ask for it.

Although you will have income and expense data for your property, that data will not necessarily be used to determine your valuation. The Board of Assessors will establish a class or grade of your property and place your property in a range of comparable market rents and expenses of similar properties (i.e., all Class A office space). It is therefore important that you review the information that the Assessors have on your property, for purposes of determining whether in fact your space is classified as a Class A or B space, (or office or industrial space) and what expense ratio is being used. It is also important to confirm the total area that the Board of Assessors considers leasable; also confirm that the classification of the area (i.e., office, storage, industrial) is correct, as the area and classification will be used to determine the market rent.

Annually, the Board of Assessors will provide commercial property owners with an income and expense report, to be filled out and returned to the Board. In addition to analyzing sales reports, the Board of Assessors reviews the income and expense reports to determine the value of a property. The Board will analyze each property under market conditions and will treat your property as being able to receive "market rent" and have "market expenses." The determination of your being able to receive "market rent" is despite the fact that you may have existing leases or may have signed a new lease with significant concessions. A year or two of vacancy will generally be ignored by the Board, which would treat all properties as subject to the same vacancy allowance. Significant changes in rent or tenant concessions, however, can be used to adjust the range of rent or expense applicable to the property, thereby reducing the value. A number of communities erroneously identify adjacent land, under the same ownership and used for parking or left vacant, as separate taxable parcels and not as part of the total operations of the business. If a property is valued by the Assessors based upon income and expense, then all parcels that are used for conducting the operation should be treated as one and there should not be a separate bill for the other ancillary parcel, thereby increasing the value of the property.

Recently purchased properties should not automatically receive increased valuations based upon a higher purchase price, because (again) the property should be compared to similar properties and to the income and expense of similar properties that were not sold. The Assessors should analyze the newly acquired property in the same fashion as existing properties, establishing a reasonable market rent for the exact square

footage and use of the facility. An increase in valuation would have to be based on corrected information, such as more square footage than recorded or a different mix of uses.

The establishment of a proper valuation based upon proper data is crucial because sales prices in 2012 in some markets actually saw a small increase. Hopefully, available space is being absorbed, and in 2013 we may see values begin to rise.

Correct data is extremely important, especially in those communities with a split tax rate, where commercial tax rates may be up to one and a half times the residential rate. Correct data is also important in communities that have established other taxes such as room taxes, in which case it is crucial to confirm that the town has not only the correct number of rooms, but also an appropriate vacancy rate, because all this information affects your value and your tax bill.

In conclusion, you should check the information on your town's Assessor's website to determine what information is available. If you cannot get the information from the Assessor's web page, then it will need to be obtained from the Assessor's office. You should analyze the town's data for your property and compare it to similarly sized and classified properties. Brokers and sales/lease listings can assist in identifying similar properties. The financial information of similar properties will likely not be available, so you will have to analyze the properties based upon a cost-per square foot basis, because the town's information will include the square footage and use of the property.

If you determine the data the town has on your property is incorrect for such simple items as the amount of square footage available, or such complicated matters as the rental income or expenses (or, in a mixed-use building, in the area designated for each use), then you will need to review the information with

the Board of Assessors, which will likely require an inspection of the property. Assuming the Board of Assessors confirms the inaccuracy of its data or the differential treatment, the Board should modify the data. If this is done as part of an abatement process (30 days after the date of the final tax bill, generally by February 1 of each year), a change in the valuation will result for the current fiscal year. If the correction is made during the year, then the change will not be implemented until the subsequent fiscal year. As part of any abatement application review on any analysis of a value, the Board will ask for an income and expense report in the event that one had not been provided previously. A recent appraisal, if one is available, would also be requested by the Board of Assessors. Any changes in data to rent or expenses would affect your value and remain applicable for years, so accurate data is crucial in determining not only your current valuation and tax bill, but also your value and bill for years to come. Information of differential treatment of similar properties (difference is cost per square foot) can also be brought to the attention of the Assessors.

The market will rebound, hopefully sooner rather than later, and there is no reason to pay additional taxes due to the Board of Assessor's incorrect data or analysis.

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**Peter R. Barbieri**

P: 508.532.3517

F: 508.532.3117

E: [pbarbieri@fletcherilton.com](mailto:pbarbieri@fletcherilton.com)

**Fletcher Tilton** PC  
Attorneys at law

### THE GUARANTY BUILDING

370 Main Street, 12th Floor  
Worcester, MA 01608  
TEL 508.459.8000 FAX 508.459.8300

### THE MEADOWS

161 Worcester Road, Suite 501  
Framingham, MA 01701  
TEL 508.532.3500 FAX 508.532.3100

### CAPE COD

1579 Falmouth Road, Suite 3  
Centerville, MA 02632  
TEL 508.815.2500 FAX 508.459.8300

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