

How to Win Your Real Property Tax Appeal

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Given the recent drop in the real estate market, a substantial number of homeowners will probably file real property tax appeals when they get their new assessment notices. Unfortunately, many of them are going to lose their cases. Here are some tips that you can pass on to your clients to help them avoid the most common problems.

REMEMBER THE BURDEN OF PROOF. In a criminal case, you're innocent unless and until the prosecutor proves that you're guilty. In a tax appeal, it's exactly the opposite – the burden of proof is on you as the taxpayer. You owe the tax unless and until you prove that the assessment is wrong. The assessor does NOT have to prove that the assessment is correct. If you don't have proper and sufficient evidence, you lose.

SAYING “IT’S TOO MUCH” IS NOT EVIDENCE. No matter how high your assessment is, just complaining about it won't win the case. You need to prove that the assessed value is greater than the actual fair market value of the property. That means you need proof of fair market value. The best evidence is documentation of actual sales of similar homes in your neighborhood. They have to be recent sales – a sale that closed two or three years ago doesn't show the current value. They also have to be sales between unrelated parties – a transfer from parent to child, for example, isn't necessarily a sale for market value. Finally, while you can offer listings and asking prices as evidence, they are not as persuasive as actual sales.

CHECK OUT THE NEIGHBORHOOD. If your assessment is consistent with the assessments of your neighbors, then you may have to show that the whole neighborhood is generally over-assessed. Conversely, if your assessment is way out of line for the neighborhood (assuming there's nothing unique about your property), that creates an argument that the assessor made an error. You can look up assessments on-line by street address, at www.honolulupropertytax.com.

GET THE DETAILS. At the website listed above, you can get the breakdown of land value and building value. You can also find information including the number of bedrooms and bathrooms, the year the house was built, the square footage, and a sketch showing the measurements of your house. If the assessor has any of the facts wrong, that doesn't necessarily prove that the assessed value is wrong, but it can help you build your case.

A BIG INCREASE IS NOT NECESSARILY WRONG. Even if your assessment went up by fifty or sixty percent from last year, that fact alone doesn't prove that it's wrong. Last year's assessment might have been low, or values in the area might really be up by that much. Just proving the size of the increase will not win your case. (If you can prove that your assessment went up by 62% while all of the other homes in your neighborhood only went up 5%, that's different.)

GET IT IN WRITING. Whatever you're going to rely on, back it up with documents. If you're arguing that the value of your house is reduced because of termite damage or a leaky roof, get a written estimate from a licensed contractor to show the cost of fixing it. Better yet, get two or three estimates from different companies. If you're relying on a sale down the street, get some documentation of the price. (Ask a realtor to print out the MLS sales report, or ask the buyer or seller if they'll give you a copy of the contract.)

BE PREPARED. When you go into the hearing, have an outline for yourself. Have all of your evidence assembled, and bring extra copies. (For the Board of Review, bring your own copy, one for the assessor, and five copies to hand out to the five board members.) Be ready to present all of your evidence – don't assume that you'll get a chance to come back later with more.

CONSIDER A SETTLEMENT. If the assessor says your house is worth \$850,000 and you think it should be \$600,000, maybe you can settle the case by agreeing on some number in between. The assessor will not settle just because you filed an appeal – you will need some evidence to get a settlement. If you can settle the case, though, you will save some tax, save some time, and eliminate the uncertainty about the result.

“TOMORROW IS ANOTHER DAY.” When it's all over, no matter how it comes out, remember that next year's assessment is a whole new ball game. Whether you won or lost, the whole process starts all over again next year.

The above is general information and not legal advice. For legal advice on your specific situation, consult an attorney.

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