

FOCUS & MUNICIPAL ASSESSMENT TAXATION

CASES, COMMENTARY, NEWS AND BEST PRACTICES • JULY 2010, VOLUME 15 • NUMBER 7

FEATURE

China's property tax initiatives

Shanghai's plan to impose a property tax on residential real estate was submitted to the central government for review, and Beijing has restricted residents to buying only one new home, the first city to implement a policy authorized by the central government. Arthur Kroeber, managing director of Dragonomics, an economics research firm, said, "It is widely recognized that the current structure of property, which has been a big source of growth, is not sustainable."

China's National Development and Reform Commission plans gradually to promote such reform. Property tax, which the government is aiming to adopt in a five-year plan beginning 2011, is facing opposition by some of China's wealthiest citizens – representing a combined \$12.4 billion, according to *Forbes* magazine – who are members of the Communist Party and delegates to China's parliament or its political advisory committee. "A property tax isn't appropriate," said Zong Qinghou, chair of beverage company Hangzhou Wahaha Group Co.

Land prices have risen dramatically, and property tax is expected to give local officials steady revenue while reducing dependence on land auctions. However, officials are constrained by those with the ability to influence policy, as documented on some company websites that detail meetings with the premier and other leaders. The government should "earnestly investigate and prepare for the property tax to be introduced," said Jia Kang, head of the Finance Ministry's research institute. Wang Chaobin, a property developer, said, "The whole world pays property tax ... China's economy must be linked with the whole world in order to become prosperous."

Under the current system, property used for commercial purposes is subject to certain taxes, while residential property is exempt. Property developers are required to pay lump-sum, upfront land rent payments for leasing periods of up to 70 years, a revenue system that local governments rely on yet are fearful to change. Delegates at the National People's Congress said it's time for property tax to be paid regularly on assessed value to deter speculators from hoarding empty property and to make local governments responsive to citizens' needs. Since 2003, several cities have conducted paper experiments. In January, a Chinese newspaper said a tax-simulation exercise would extend nationwide in 2010. Critics suggest that the tax

should apply only to properties above a certain size or to non-primary residences, and that valuation assessment is far too complex for a property market in its infancy.

According to a report by Australia and New Zealand Banking Group Ltd. and its economist, Liu Ligang, the tax could generate CNY 120 billion (CAD \$18.5 billion) annually, 0.8% of the market value of properties, levied on people with multiple homes beginning with the second home. Revenue from a property tax would be 8% of money generated through land sales. See <http://en.ndrc.gov.cn>.

QUOTABLE QUOTE

“Bureaucracy, the rule of no one, has become the modern form of despotism.”

—Mary McCarthy

In this Issue

- | | |
|----|--|
| 49 | Feature China property tax initiatives |
| 50 | Feature Alaska Superior Court ruling doubles Trans-Alaska pipeline system value |
| 50 | Feature Aerial assessments prove fruitful |
| 51 | Publications: New & Noted |
| 51 | Call for Applications Grants available for appraisal research |
| 52 | Feature Self-storage valuation: A technique for checking an appraisal's fairness, by Charles Ray Wilson |
| 53 | Quirky but true... |
| 53 | Work Word |
| 54 | Foreign Affairs |
| 54 | Coast to Coast to Coast |
| 55 | Legal Briefs |
| 56 | Transitions |

FEATURE

Alaska Superior Court ruling doubles Trans-Alaska pipeline system value

An Alaska Superior Court judge more than doubled the assessed value of the Trans-Alaska pipeline system (TAPS) for the disputed tax year of 2006. The 170-page ruling concerns the assessed value of the 800-mile [1,280-m] pipeline system, setting value at \$9.98 billion, just over half its estimated replacement cost and more than double the \$4.3 billion the state Assessment Review Board determined.

"We're ecstatic," said Jim Greeley, petroleum property assessor with the state's Department of Revenue, adding that the decision "largely upholds the Department's methods, policies, practices, and calculations in administering the value of the TAPS."

The state and municipalities stand to share in extra tax receipts of approximately \$113 million, of which some \$56 million would go to the state and \$57 million to municipalities. The nonjury trial covered more than five weeks and involved dozens of witnesses in the fall of 2009.

The owners – the largest of which is BP, with 49% of the holdings – have filed legal challenges to the state's escalating assessments for 2007, 2008 and 2009 consolidated into one case. In regard to the ruling about 2006, BP's Alaska spokesperson, Steve Rinehart, wrote, "We are reviewing the ruling, so that we can determine our best course forward." State

officials assessed the pipeline's value for 2010 at \$9.2 billion. Department of Revenue officials adopted a replacement cost approach of new less depreciation, which they said more accurately estimates the full and true value for property tax purposes.

In her ruling, Judge Sharon Gleason included a one-page summary, starting with a replacement cost of \$18.7 billion and working in such factors as depreciation to reach the assessed value of \$9.98 billion. She disagreed with the owners that the economic value of TAPS stems mainly from its tariff income and that the system was worth just \$850 million in 2006. "TAPS was built and is operated to monetize the vast ANS reserves of the producer oil companies by bringing those reserves to market," Gleason wrote. "It was not constructed, and is not maintained, in order to realize tariff income." In her conclusion, she stated, "The construction of TAPS in the 1970s cost the equivalent of \$24 billion in 2006 dollars. The evidence at trial demonstrated that as of January 1, 2006, the value of the remaining proven reserves on the North Slope was approximately \$350 billion. The value of those proven reserves cannot be realized without TAPS, as it constitutes the only viable means of transporting ANS product to market. Clearly, TAPS would be replaced to realize the value of those proven reserves if necessary."

FEATURE

Aerial assessments prove fruitful

Allegheny County began a reassessment of properties from the air, using sophisticated aerial photography and computer technology for assessments. In recent flyovers, a firm hired by the county photographed all 572,000 properties from several angles, allowing assessors to trace the length and width of each structure and property line and determine square footage. Costing almost \$400,000, the aerial mapping will save the expense of data collectors on the ground measuring each property. Aerial flyovers have the added advantage of not requiring permission of the property owners to fly over their houses.

"In the last court-ordered reassessment, one out of five property owners said, 'You're not permitted on my property,'" said Mike Suley of Allegheny County Property Assessment. "Fine. We won't come on your property, but we're still going

to assess the property."

All properties are being photographed from at least five different angles, making it hard for some owners to try to get a lower assessment by hiding newly added assets such as a swimming pool, deck or sun porch. "It's hard to argue with a photograph," said Matt Mercurio of County Information Systems.

The county rejected complaints that "Big Brother is watching over us," saying that accurate information provides assessment equality and makes sure everyone pays a fair share. All new assessments will be sent out by January 2012.

As noted in *Focus*, vol. 15, no. 4 (April 2010), Sarah Palin's recreational property consisting of a two-storey house, workshop/garage and sauna was discovered in a flyover assessment conducted by Alaska's Matanuska-Susitna Borough.

Publications: New & Noted

The Green Multiple Listing Service Tool Kit

Four organizations collaborated on a tool kit to help appraisers with valuations on homes with energy-efficient features. The kit provides guidance on enhancing MLS data for comparisons, analyses and adjustments and access to supporting documents and resources including links to case studies of MLS systems that have completed a green initiative, example data entry forms containing searchable green features and a glossary of green terms. Recommendations include best practices and a step-by-step guide to successful implementation. To download the 36-page kit, see www.greenthemls.org.

Manual for Assessment of Cable Television Property 2010

A supplement to the Iowa Real Property Appraisal Manual with the Iowa Department of Revenue. To download the 4-page guide, see www.iowa.gov/tax/forms/57016.pdf.

The Property Tax and Local Autonomy

By Michael E. Bell, David Brunori & Joan Youngman (eds.)
Examines the issues and consequences of a declining property tax base with respect to local government autonomy as a follow-up to Erosion of the Property Tax Base (2009), which presented papers from the first property tax policy roundtable. The editors of that volume documented trends and causes of the local property tax base decline. Here, they focus attention on “so what”: Why is it important that local governments have access to a strong, vibrant local property tax?

2010; 312 pp.; paper, \$30

ISBN: 9781558442061

www.lincolnst.edu/pubs

Municipal Revenues and Land Policies

By Gregory K. Ingram & Yu-Hung Hong (eds.)
What will happen if municipalities are no longer financially able to provide daily public services? To expand own-source revenues, cities are facing voters’ resistance to tax and user fee increases. Yet, curtailments in local services will adversely affect residents’ welfare and may lead to labour and capital outmigration. The Lincoln Institute held its 4th annual land policy conference to discuss selected fiscal instruments. Chapters present key themes emerging from the discussions.

2010; 560 pp.; paper, \$30

ISBN: 9781558442085

www.lincolnst.edu/pubs

“The Million Dollar View: A Study of Golf Course, Mountain, and Lake Lots”

By David Wyman and Stephen Sperry

The Appraisal Journal, Volume LXXVIII, Number 2 (Spring 2010)

This article investigates the pricing of a golf course (designed by Jack Nicklaus), lake and mountain view lots. The authors used GIS analysis of a complex in South Carolina and found that price premiums ranged from 124% to 287% for lake-front, 94% to 133% for lake views and 42% to 85% for golf course views. The 3,900-acre [1,560-ha] complex sold some 600 lots between January 2000 and December 2008 at a total price of almost \$200 million. In the same issue, “Valuing High Performance Houses,” by Sandra K. Adomatis, looks at how appraisers can value energy-efficient homes, describes green certification programs and explains how appraisers can document a builder’s or homeowner’s claim that a home is energy-efficient. “Professional Valuation in Russia: Its Past, Present, and Future,” by A.I. Artemenkov and I.L. Artemenkov, describes the country’s evolving valuation profession and efforts to create laws, standards and methodologies that will lead to uniformity and professionalism. See www.appraisalinstitute.org/taj/Default.aspx.

CALL FOR APPLICATIONS

Grants available for appraisal research

The Appraisers Research Foundation is accepting applications for grants from \$2,000 to \$15,000 or more, to fund research related to real estate appraisal that benefit the industry and the public. Grants are available to individuals, associations, corporations and academic institutions. Applications received prior to September 1, 2010 will be considered at the foundation’s fall board meeting; those received later will be considered at its spring 2011 board meeting. Examples of current grant work-in-progress include:

- Predatory Lending, Client Pressures and Appraisal Frauds, by Steven Smith;
- Extraction of Percentages of Total Employment Occupying Office Space, by Joseph Rabianski;
- Unwanted, Polluted, and Dangerous: America’s Worst Abandoned Properties and What Can Be Done About Them, by Justin Hollander;
- Development of GIS Curricula for Real Estate Appraisers, by Christopher Miner; and
- The Development of a Guide for Identifying Trout Streams and Their Contributory Value, by Richard Larkin.

To review eligibility and apply, see www.appraiserresearch.org/grants.

FEATURE

Self-storage valuation: A technique for checking an appraisal's fairness

BY CHARLES RAY WILSON

How do you judge the fairness of an appraiser's value and selected cap rate? The use of an "effective gross income multiplier" can help self-storage facility owners better understand their facility's worth.

I recently visited my friend Bill, who owns a self-storage facility. When I walked into his office, he was sitting behind his desk, looking like he'd just seen a ghost. When I asked what was wrong, he said, "My loan is coming due, and I just talked to my lender. He said that since revenue has declined and cap rates increased, I'll have to come up with \$500,000 in additional equity to refinance." When I asked how the bank estimated the amount of equity he would need, Bill said it was based on the appraiser's estimate of market value, and he'd sent the lender his most recent profit-and-loss statement. I asked if the appraiser had met with him to go over the data and inspect his facility. The appraiser hadn't, but the lender gave him a copy of the appraisal. "I've lost everything," Bill said. "My retirement nest egg is gone. I don't know what I'm going to do!"

A Valuation Technique

There are many self-storage owners in this same situation. Clearly Bill and others like him need some way to check on the reasonableness of an appraiser's judgment. How can they know if the value the lender comes up with is a fair one? There's a simple valuation technique used for other types of real estate that could help. Called the effective gross income multiplier (EGIM), the technique provides a quick and reliable estimate of value. It would give owners an idea of their facility value, some indication of whether there is a problem and, if so, just how big it might be. It would also allow an owner to judge the reasonableness of the appraiser's selected cap rate.

I told Bill we should look at his appraisal, specifically the appraiser's estimate of his effective gross income (or revenue, as it is often called). There are a few items that can really influence value, and estimating the EGI is one of them. We'd have to keep in mind that in a declining market, appraisers tend to be conservative, often focusing on a facility's most recent performance and sometimes ignoring the not-so-obvious.

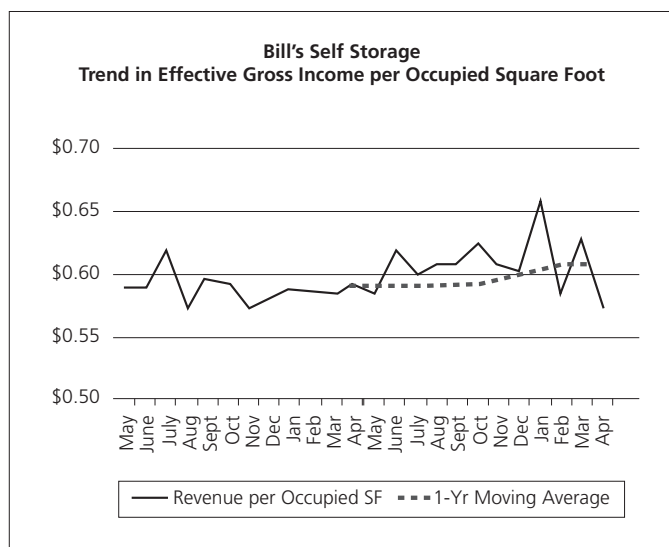
An appraisal is just an opinion of value based on a series of judgment calls that starts with the estimate of gross income and concludes with net operating income. Estimating EGI is not easy, as it begins with an analysis of the competition. This usually turns up a wide range of rental rates for each unit type.

To encourage a more accurate appraisal, talk to the appraiser about how you set asking rental rates. For example, if you set rates at the low end of the range offered by competition because you don't wish to offer huge concessions, make sure the appraiser understands this. Otherwise he might use your existing rates, and then deduct the typical cost of concessions in other facilities, thus penalizing your facility. Explain your management style and how your facility differs from others.

A Revenue-Management Tool

One of the best ways to estimate EGI is to track total monthly collections per occupied square foot over the past 12 to 24 months. This includes rental as well as ancillary income. There are at least two benefits for doing this monthly. First, it offers a quick way to judge the fairness of the appraiser's estimate. Second, it helps owners measure the impact of changes in rates, physical occupancy and concessions on total revenue. This revenue-management tool was first used by the hotel industry and is often referred to as "revenue per available room," or REPAR. The real estate investment trusts use a similar methodology for tracking revenue called "revenue per available square foot."

While it sounds complicated, it isn't. It's simply the facility's total monthly revenue divided by the number of occupied square feet for that month. In Bill's case, his facility has 53,874 net-rentable square feet. Assuming the physical occupancy



was 85% and the total month's revenue was \$27,873, the EGI per occupied square foot for that month was 60 cents.

53,874 square feet x 0.85 = 45,793 square feet

\$27,873 divided by 45,793 = \$0.60 per square foot

The graph titled "Trend in Effective Gross Income per Occupied Square Foot" plots Bill's monthly EGI (grey line) and the one-year moving average. Notice that even though revenue has declined, Bill has actually collected more per occupied square foot by adjusting asking rental rates, concessions, discounts and promotions. His EGI has averaged about 60 cents per square foot over the past year. We can now estimate Bill's EGI at approximately \$329,700.

\$0.60 x 45,793 square feet = \$27,475

\$27,475 x 12 months = \$329,709

The EGIM is a handy tool to estimate value, and it's easy to use. The advantage of using it is you don't have to analyze operating expenses, only the amount of EGI. The multiplier is derived from the market by dividing the sales prices of recently sold self-storage facilities by their annual EGIs.

An analysis of more than 1,500 facility sales in my company's database over the past several years shows EGIMs ranging between 5.5 and 9.5 (excluding extremes). EGIMs reflect investors' anticipated risk and return and, like cap rates, have declined considerably over the past year. My analysis of EGIMs between 2007 and today indicates a peak at something over 9.

The selection of an EGIM should be based on recent local sales of comparable facilities. A quick check of sales in Bill's market indicated EGIMs between 7.5 and 8.5, so we used 8. Having already estimated his annual EGI to be \$329,700, we were quickly able to approximate his facility value at \$2.6 million.

\$329,700 x 8.0 = \$2,637,600

Now Bill has some idea of what his facility value might be after a full appraisal is complete, and he's in a better position to discuss his opinions with his lender. Bear in mind, this is not a substitute for an appraisal, but rather a starting point for an intelligent discussion about value.

EGIM as a Predictor of Cap Rates

There's a relationship between EGI and cap rate, expressed by the following formula: $(1 - \text{Expense Ratio}) / \text{EGIM} = \text{Cap Rate}$. If you're not sure what the cap rate should be, you can use a range of EGIMs from sales in your neighborhood to derive a range of cap rates and see if the appraiser's selected cap is within a reasonable range. Assuming EGIMs range between 7.5 and 8.5, as in Bill's market, the cap-rate range would be:

$(1 - 0.35) / 7.5 = 8.7\%$

$(1 - 0.35) / 7.7 = 8.4\%$

$(1 - 0.35) / 8.0 = 8.1\%$

$(1 - 0.35) / 8.2 = 7.9\%$

This exercise indicates that if the EGIM is based on local sales, and the operating expense ratios were taken into account when calculating the EGIM range, the appropriate cap rate would range between 7.9% and 8.7%, all else being equal. In Bill's case, we concluded the appraiser was too conservative on the estimate of EGI. We also concluded the cap rate of 9.5 used in the appraisal was well outside the indicated range.

The use of an EGIM is no substitute for having a complete appraisal, but if performed properly and with good data, it can provide a ballpark estimate facility value based on something other than the owner's bias. An EGIM also allows for a fairness check on the appraiser's cap rate. It's important to compare apples to apples, and ensure the multiplier is applied to an estimate of EGI that reflects the facility's historical performance trend. The EGIM technique is just another tool, not a substitute for conducting a full appraisal. However, it does provide a logical starting point for a discussion of value that's not just opinion-based.

Reprinted with permission from Inside Self-Storage magazine, the premier magazine of self-storage professionals. For information, see www.insideselfstorage.com. To reach the author, email craywilson@crwilson.com.

WORK WORD

propeller-head, *n.* A computer programmer. Suspected of dropping in from outer space, she alone in the office has a good excuse for speaking in code.

From *A Devil's Dictionary of Business Jargon*
by David Olive

Quirky but true...

In the category No Wonder Greece Has Problems: In the wealthy northern suburbs of Athens, 324 residents checked the box on tax returns that they owned pools. Studying satellite photos, tax investigators discovered another 16,650 pools (*New York Times*). In this issue of *Focus*, see "Aerial assessments prove fruitful," page 42.

Coast to Coast to Coast to Coast

Dubai

The Dubai Land Department organized a May workshop on property valuation, considered the first event of its kind in the United Arab Emirates, aiming to raise collective professional awareness of valuers in the federation in line with international standards. With participants from many Arab countries, the events focused on 10 main topics. Mohamad Khodr Al-Dah, Head of Taqyeem (Real Estate Appraisal Centre), explained that the session offered an excellent opportunity for those interested in property valuation to meet with experts from the government sector in the United Arab Emirates as well as regulatory experts from the United Kingdom and private valuers in Dubai. See www.dubailand.gov.ae.

Firms offering property valuation services in the United Arab Emirates, especially for properties in Dubai and Abu Dhabi, reported a 25% to 30% increase in requests in the first quarter of 2010 compared to the closing quarter of 2009. “There is an increase in people intending to acquire properties instructing a valuation prior to that acquisition,” said

Catherine Clarke of Colliers, adding that the bulk of requests are from freehold areas where properties are complete.

Slovenia

With Eastern European nations re-establishing systems for property tax and public finance, a Lincoln Institute delegation travelled to Slovenia’s Center of Excellence in Finance in Ljubljana, which was established in 2001 to provide training, research and assistance to regional officials dealing with public financial management. The week-long course Market Value-Based Taxation of Real Property: Lessons from International Experience included topics such as policy formulation, comparison of international practice and details of market analysis and valuation methods. Participants included more than 25 public officials from the Czech Republic, Serbia, Montenegro, Kosovo, Croatia and Bosnia-Herzegovina. Partners include the World Bank, the International Monetary Fund, the European Commission, the Organisation for Economic Co-operation and Development and the US Department of the Treasury.

Foreign Affairs

USA (*NB: All figures in US\$*)

Wisconsin

Sears is suing the City of Racine in Racine County Circuit Court, saying its property assessment at Regency Mall is excessive at \$9.8 million, with property taxes of \$231,003 in 2009. Sears unsuccessfully contested the assessment with the city, hiring an appraiser who estimated the value at between \$4.5 million and \$5 million,

Florida

Floridians with corrosive Chinese drywall in their homes will get property tax breaks under a bill that requires local appraisers to temporarily declare homes with the problematic wallboard as worthless. The measure, HB 965, won unanimous approval from the house and senate, taking effect immediately upon Gov. Charlie Crist’s signature. The new law requires appraisers to reduce assessed values of such single-family homes deemed at \$0, unlivable until remediated or repaired. The reduction would not affect land values and is only for homeowners who were unaware of the drywall’s presence when they bought the home. Reduced values would apply to all local property taxes, including levies, beginning in the current tax year. For homeowners who left primary homes because of the drywall, those homes can’t be considered abandoned if the homeowner does not establish a new homestead. Once remediated, the home is to be assessed as if

the drywall was never there. Thousands of Florida homeowners complained to officials, saying the drywall emits sulphuric gases that corrode air-conditioner coils, electrical wiring and appliances, cause health ailments and reduce property values. Some sought tax relief from appraisers, with responses varying from no change to reductions in value by as much as 80%. Manatee County Property Appraiser Charles Hackney cut value in half for 80 such properties, taking nearly \$7 million off the tax roll. The new law has a July 1, 2017, repeal date.

Canada

Saskatchewan

Regina’s finance and administration committee approved a five-year tax exemption for a community garden. Councillor Michael Fougere, committee vice chair, said, “This is a great opportunity for the community to have a garden there and this is just making sure there’s no problem with respect to taxes.” He added that other community gardens are operated on city property, generally exempt from taxation. The South Zone Recreation Board has operated the garden but a lease and formal city property tax exemption had not been secured. Thus, the garden would not be able to operate if the taxes of \$26,623 had to be paid. The property is owned by the University of Regina, leased to the Saskatchewan Opportunities Corporation and leased by the city from the corporation.

Nova Scotia

As mayor of the province's smallest municipality, Annapolis Royal's Phil Roberts said his town's top concern is assessment values and taxes for Nova Scotia Power (NSP) properties, paid to provincial municipalities as grants in lieu of property taxes. Annapolis Royal is appealing to the Nova Scotia Utility and Review Board (www.nsuarb.ca) after a new assessment of NSP property came in 28% below what the town had been receiving. Roberts said the 500 residents cannot make up that \$580,000 loss. NSP's tidal-power generating station in Annapolis Royal was assessed at \$41 million, which the Property Valuation Services Corporation (www.pvsc.ca) first reassessed at \$9 million. The corporation noted that the previous assessment was wrong to include equipment and machinery, and then settle on \$16 million with reductions phased in over three years beginning the next fiscal year. Mayor John Leefe said his Region of Queens lost \$96 million in assessed value for NSP properties after a review translated into \$1.5 million less a year in grants in lieu of taxes. Instead of appealing to the review board, Queens is talking with the assessment corporation to see if the parties can agree on a different assessment for NSP properties. Municipalities are also evaluating the

applicability of the recent Supreme Court of Canada decision that ruled the federal government and Crown corporations must pay municipal taxes at the same rate as other property owners. (See Focus, vol. 15, no. 6 [June 2010], "Supreme Court of Canada rules for City of Montreal.")

Ontario

(Note: Acronym MPAC is *Municipal Property Assessment Corporation*)

Toronto's bank office towers are in the Ontario Court of Appeal before a three-judge panel to secure lower assessed values, with tax refunds of up to \$150 million. MPAC set the towers' collective assessment as high as \$4.7 billion, while lawyers for the towers are aiming for value of approximately \$3.4 billion. Richard Poole, a lawyer for the towers, argued that the buildings should be valued strictly "in fee simple, if unencumbered." If the language meant the buildings to be valued as operating enterprises or "leased fee at market," the law would have clarified this. MPAC and the City of Toronto argue that commercial towers are operating enterprises with tenants and income. Legislation in British Columbia stipulates that commercial buildings should be valued as going concerns.

Legal Briefs

Northern Pines MHP, LLC v. Board of Assessment Review of Town of Milton et al., 507883. Appellate Division of the Supreme Court of New York

The petitioner is the owner of two mobile home parks, known as Northern Pines and Milton Knolls, totalling more than 106 acres [42.4 ha] and 241 mobile units. In 2006, the respondent, Assessor of the Town of Milton, assessed both sites at a combined full market value of \$8,278,100. The petitioner challenged that valuation, claiming it was excessive and not an accurate reflection of fair market value as of the July 1, 2005 tax status date. After a nonjury trial during which each side introduced competing expert appraisals, Supreme Court granted the petitioner's application and adopted its appraisal, placing the property's fair market value at \$5,950,000. Court ordered respondents to refund any excess taxes paid on the property along with costs and disbursements incurred by the petitioner. Respondents now appeal. The court noted that the respondents' appraiser, by his admission, had little experience in preparing appraisals regarding the value of mobile home parks and had not visited the property in the preparation of the appraisal. It also found that the respondents' appraiser used dated comparable sales in his market comparison analysis and failed to present evidence that the sale of the property in August 2001 for \$3,000,000 was not an arm's-length transaction between buyer and seller. See www.leagle.com/unsecure/page.htm?shortname=innyco20100415273.

Tomei v. Lincoln County Assessor, Tax Court of Oregon, Magistrate Division, Property Tax

Plaintiffs appealed the real market value of their land for tax years 2006/07, 2007/08 and 2008/09 with a September 30, 2009 trial. The plaintiffs appealed from an order of the Lincoln County Board of Property Tax Appeals (Board), alleging an error in value in excess of 20% for the three-bedroom, two-bath home built in 1973: a two-story structure with 1,678 square feet [151 m²] on the main level and an equal amount of space on the lower level of a partially finished basement. The home sits on a 1.08-acre [0.43-ha] irregularly shaped lot with a distant view of the ocean, sloping front to back, with a severe drop-off at the back described as a deep ravine with a creek. In a February 6, 2009 letter, the plaintiffs stated their home is surrounded by forested swampland which they were told serves as a natural wildlife habitat, so only a portion of the property is usable. The defendant basically agreed with plaintiffs' assessment, estimating the usable home site to be 15,456 square feet [1,391 m²], with the remaining 31,047 square feet [2,794 m²] constituting an excess area. The plaintiffs purchased the property February 18, 2005 for \$218,000 and had the property appraised by an independent appraiser in 2009 at \$450,530. That appraiser determined the market value of land was \$160,000, plus an additional \$10,000 for the as-is value of site improvements. The plaintiffs appealed the RMV of the land, requesting it be reduced to

\$160,000. The defendant submitted a value report presenting historical sales data for the county and comparable sales for the periods, showing a rising market from 2000 to 2005, followed by a sharply declining market in 2006, 2007 and 2008. Both parties agreed that value reductions were in order, but disagreed as to the magnitude. The evidence created a “confusing picture” regarding appraisals, sales and declining markets. Adjusting the defendant’s land RMV to correspond to the purchase price suggested the value was approximately \$110,000. Court found a preponderance of evidence demonstrating values lower than those on assessment and tax rolls for the years under appeal. Accordingly, court analyzed data and arrived at what it believed to be a fair determination, concluding the RMV of land including site developments was \$175,000 as of January 1, 2006; \$173,000 as of January 1, 2007; and \$170,000 as of January 1, 2008. Reductions for the 2006/07 and 2007/08 tax years satisfy the 20% error requirement. The defendant shall recalculate the total RMV and assessed value in accordance with the court’s value determinations. See www.leagle.com/unsafe/page.htm?shortname=inorco20100323478.

Transitions

In Ontario, **Tony Prevedel** is Pickering’s new Chief Administrative Officer.

Hans Cunningham of the Regional District of Central Kootenay, BC was acclaimed President of the Federation of Canadian Municipalities (FCM). First Vice President is Councillor **Berry Urbanovic** of Kitchener, ON; Second Vice President, Councillor **Karen Leibovici** of Edmonton, AB; and Third Vice President, Mayor **Claude Dauphin** of Lachine, QC.

Jacques Des Ormeaux, General Manager of the City of Bromont, QC was elected President of the Canadian Association of Municipal Administrators.

Altus Group Income Fund announced it acquired Brazos Tax Group LLP, providing Altus with an increased presence in the United States through the extension of property tax services. Brazos-established national services include business and personal property compliance and appeals, real estate valuation appeals and property tax payment administration and due diligence. “A shared corporate culture and demonstrated mutual commitment to growing market share make this a natural and exciting extension of our relationship,” said **Jim Derbyshire**, Global President, Tax, Altus Group. “We know Brazos’ business success, years of expertise and local insight will provide a solid foundation to enhance Altus’ expanding scope.”

FOCUS MUNICIPAL ASSESSMENT & TAXATION

EXECUTIVE EDITOR
Peter A. Milligan
Associate Counsel
Assessment and Property Taxation
Miller Thomson
Toronto, Ontario

MANAGING EDITOR
Cynthia Martin
cmartin@longwoods.com
Longwoods Publishing Corporation

PUBLICATIONS BOARD
Chair
Susan de Avellar Schiller, AICP/
MCIP, ACR
Ontario Municipal Board

Robert Butterworth
Vice Chair, Ontario Assessment
Review Board

Ron Cust, Director of Legislative
Projects for Alberta Municipal
Affairs

Yvonne Hamlin, LL.B.
Borden Ladner Gervais LLP

Charles J. L. Hardy, B.Sc., FRICS,
AACI, Altus Group

Connie Fair
Chief Executive Officer,
British Columbia Assessment
Authority

Lawrence Hummel
Vice President, Property Values
Municipal Property Assessment
Corporation

Grace L. Marsh, CMM I, CMT
DuCharme, McMillen & Associates
Canada, Ltd.

Carla Nell, MA, AIMA, PLE, CEI
Vice President, Tax Policy
MTE Consultants Inc.

Diane J. Ross, B.A., LL.B.
Ministry of Finance, Ontario

EDUCATION BOARD
Chair
Paul Sloggett, IMA
Education Coordinator, Seneca
College

PUBLISHER
Anton Hart

COPY EDITOR
Francine Geraci

DESIGN AND PRODUCTION
Yvonne Koo,
Jonathan Whitehead

ASSOCIATE PUBLISHER
SUBSCRIBER SERVICES
Barbara Marshall
bmarshall@longwoods.com

MAILING ADDRESS:
260 Adelaide Street East
No. 8, Toronto, Ontario
Canada M5A 1N1
Telephone: (416) 864-9667
Facsimile: (416) 368-6292
Email: cmartin@longwoods.com
Internet: www.longwoods.com

A FOCUS Publication
Twelve issues per year
ISSN 0711-0599 Printed in Canada

© 2010 Longwoods Publishing Corporation. All rights reserved. No part of this work covered by the publisher's copyright may be reproduced or copied in any form or by any means without the written permission of the publisher, who will provide single-duplication privileges on an incidental basis and free issues for workshops and seminars.

This tax letter is printed on recyclable paper.

What our readers think of Focus publications is important to our sanity. If you have any comments, please take a moment to send us a note. Information contained in this publication has been compiled from sources believed to be reliable. While every effort has been made to ensure accuracy and completeness, these are not guaranteed. It is an express condition of the sale of this legal letter that no liability shall be incurred by Longwoods Publishing Corporation, the editors or by any contributors. Readers are urged to consult their professional advisors prior to acting on the basis of material in this legal letter.

Unauthorized duplication of this document is against the law. For single or multiple subscriptions, please contact the publisher.



Longwoods Publishing
Enabling Excellence