

Realities of the Market

by Terry Ennes & Mollie Quill

The economy, as we all have noticed, is in a rather nasty downturn at the moment. We know the housing market bubble has burst. But is there another segment of the real estate market ready to sink like a stone?

Many experts feel that *commercial* real estate is a ticking time bomb, and a big one. A surge in foreclosures on commercial properties threatens the fragile US economy. Defaults will swell over the next few years as loans that were issued at the peak of the market come due and the borrowers try to refinance. Then there are also the problems with properties that are tied into commercial mortgage-backed securities (or CMBS).

A CMBS bond is a security based on mortgages on commercial properties instead of residential, and there is a low risk of pre-payment associated with them. However, with the economic downturn, CMBS are now suffering from two major issues. Bad underwriting during the years of loose credit has led to buildings that aren't generating enough revenue to make their payments, which in turn hurts the CMBS they are attached to. In addition, because of the way CMBS are set up and because of how far the underlying properties' values have fallen, property owners cannot refinance their loans, which leads to losses not only for the owners, but also for the investors that purchased the CMBS.

Banks that hold commercial mortgages and construction loans are also hurting. The delinquencies on these debts have played into many bank failures. It is only likely to get worse because of the high foreclosure rate in the CMBS market. Banks have ways of managing these losses by extending the debt so long as the property involved can generate enough money to pay debt service.

Unfortunately, CMBS aren't as flexible. When CMBS were created, no one ever thought they would go into default, so there is no real way to extend or restructure the loans involved. The Treasury has been considering guidelines that would allow CMBS servicers to find ways to avoid defaults and foreclosures however, investors in the bonds argue that the servicers can't do that as they are contractually bound to the bondholders.



It's not all necessarily bad news for the commercial real estate market though. Many real estate firms are on the look out for distressed properties to grab, even though they're in the middle of fighting their lenders over failed properties that they already hold. Investors with the money and discipline are setting themselves up to make more money when the market recovers.

But what will it take to keep the commercial real estate market from imploding and the CMBS from self-destructing and the banks from sinking? The economy needs to be resuscitated, and the most effective way to do that is for employers to start hiring again and for consumers to start spending again. We've seen glimmers of hope in those areas but must agree a rocky road is ahead.

What does all this mean in the property tax arena? While it is difficult to tolerate stable and increasing property tax assessments in this economy only minimal quality market data is available to support the decline in value that most of us know already exists. Until such time as sales start happening again it will continue to be difficult but not impossible to secure assessment reductions that reflect the downturn in value.

At Ennes, we are ever vigilant for market data that supports evidence of the downward trend. Other factors that are equally useful relate to your property's specific economies such as occupancy/vacancy rates, income and expense statements and material changes to the property including deferred capital expense items.

If you have received our facility update request and have not had a chance to review it, now is the time, so that we have the most recent information to complete our annual assessment analysis. It is also the time to talk with us to plan your strategies to maximize property tax savings. As always do not hesitate to contact us if you have any questions.

Request Denied

Allegheny County Pennsylvania got the word...begin your reassessments. In mid August the Pennsylvania Supreme Court ruled against any further delays. County Executive Dan Onorato had requested the reassessment be postponed after the Supreme Court, in April, upheld a ruling that charged the county's base-year system was unfair and hurt lower priced property owners.

Under the base-year system current assessments are based on the value of property in 2002. Current market conditions leave many feeling over-assessed with limited options to appeal without a reassessment.

The Supreme Court sent the issue back to the Allegheny County Court Judge to schedule the reassessment. Timing may make it impossible for the reassessment to happen for the 2010 year though.

The State Finance Committee is studying House Resolution 272 which calls for a study comparing Pennsylvania's base-year system with Maryland's property tax reassessment system. In Maryland, property is assessed at 100% of market based on a state wide valuation. Local jurisdictions then reassess all property every three years, phasing in the assessment change over the next three years.

Good Reading

If you're doing business in North Dakota, the *North Dakota Tax Incentives for Business*, is a must read. The brochure, published by the Office of the State Tax Commission outlines the numerous tax incentives available to business in the state.

The brochure gives application requirements and explanations for a variety of incentives including the new or expanding business exemption, the biomass, geothermal, solar or wind energy credit and the research expense credit.



It's Freezing in Georgia!

House Bill 233, approved by the Georgia General Assembly and signed by the Governor, places a three year moratorium on assessment increases for all property classes. It does not apply to the assessment of new buildings or improvements to current properties. Those will be assessed at fair market value.

This freeze, however, doesn't extend to property taxes. Tax rates can still rise as evidenced by the recent 42% increase by the City of Atlanta.

HB 233 will automatically repeal on the second Monday in January, 2011.

Help!!

It's that time of year! A lot of taxing jurisdictions are wrapping up their reassessments before year end. Mailings in many states will be going out in the next few months. If you have any questions about your recent reassessment, for property in any state or Canada, be sure to call Ennes.

In some states, like Montana, Departments of Revenue have released information to help taxpayers understand how the 2009 reassessment has affected their property values. The information explains the notice taxpayers just received, what tax relief is available and frequently asked questions.

In addition to that information, however, we can help you decide if an appeal is warranted, how the increase affects your bottom line and what tax savings may be possible.