

IAAO PRESENTS



# PREP&TRIAL

**JULY 10 - 11, 2025  
COLUMBUS, OH**



## **Deciding to Litigate- Owner's Perspective**

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# Potential Upside

## Tax Savings – Short Term or Long Term

- Caps on Assessment Increases
- Reassessment cycle?

## Assessor's Willingness to Resolve Issue

- Unprepared Assessor
- Underfunded Assessor



# Potential Downside

Can the assessment increase?

- Does law allow for upward adjustment
- Will assessor increase assessment in future years based on a win and additional information?

Public Perception

Costs

Prevailing party laws



# Issues Determining Success



## The Right Team - Attorneys

- Property Tax Attorney
- Specialized Property Type Tax Attorney
- Eminent Domain Attorney



# Issues Determining Success



## The Right Team – Appraiser

Familiar with property type and industry

Prior experience means prior appraisals – will they help or hurt the expert?

Property Tax Attorneys will probably already know the right experts



# Issues Determining Success



## The Right Team –Other Witnesses

- Review Appraiser
- Industry Expert
- Economist

# Understanding the Law

## What is the value premise?

- Fair Market Value
- Value-In-Use

## Burden of Proof

- Preponderance of the evidence
- Clear and convincing evidence

## Levels of Appeal

- Administrative Hearings
- Circuit Court

# Unforeseen Challenges

## Other Appraisals

## Admissions by Party

- F.R.C.P. 801(d)(2)
  - Party's own statement<sup>5</sup>
  - Statement in which the party has manifested a belief
  - Statement by person authorized to make statement
  - Statement by agent concerning matter w/l scope of agency

## Costs

Attorney's fees

Expert Witness' fees

Various Court Costs

Other side's cost under prevailing party laws

# The End Game

Lowered Assessment

Higher Assessment

Settlement

Open dialogue for future years

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## **Property Litigation**

From the Assessor's Perspective



## The Responsibility of Preserving & Protecting the Taxable Base



Every reduction in the taxable base is absorbed by all other taxpayers in the jurisdiction. The assessor, in their duty to provide a fair and equitable administration of the local property tax, must be diligent in trying to prevent unnecessary or unwarranted reductions.

What are factors to be considered by the assessor in choosing to move forward with a trial?

- Cost Benefit Analysis – what is the delta between the Town and Taxpayer value? Does the cost of going to trial outweigh the difference in value and subsequent revenue to be collected?
- Decision Making Authority – does the assessor have the sole decision making authority in property tax appeals or do they need permission by governing body of municipality?
- Political Pressure – while assessment offices are meant to be apolitical, political pressure can still affect them.
- Credibility & Communication – can the assessor successfully present and communicate their value and the process they undertook to arrive at that value to non-appraisal experts?



## Establishing Case Law

- An assessor never wants to be responsible for creating negative case law that sets a precedent.
- In those situations where that may be a possibility:
  1. Do you work for a municipality that would support fighting a decision that could set a precedent?
  2. Can the municipality afford the fight, especially if it involves appeals to the Appellate or Supreme Court?
  3. Does the assessor have a strong case?
  4. Does the municipality have an attorney experienced in trial litigation?



# Has the assessor violated state law?



- Typically, in property tax appeals where the predominant issue is not the valuation of the property, they surround the following issues:
  1. Filing deadlines & penalties
  2. Eligibility criteria for various programs (i.e agricultural programs)
    - Is the criteria for assessment programs codified in law or per the determination of the assessor?
  3. Exemptions
    - There seem to be a rise in exemption cases across the country that revolve around properties that are considered charitable or nonprofit.
    - Are the exemptions in your state or jurisdiction based on ownership or use?
    - Is 'charitable' defined in statute?
    - Who has the authority to determine exemptions?

# The End Game

Fair and Equitable Treatment

Equal Application of the Law

Preserving the Tax Base

Open dialogue for future years