

IAAO PRESENTS



# PREP&TRIAL

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



# General Trial Strategies

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# General Trial Strategies – Know Your Case



- **What is this case about? (This will evolve!)**

**Discovery**

- **Do you fully understand the issues?**

**Appraisal Theory**

**Legal precedent**

- **Do you have the right team?**



## Hospitality/Hotel Litigation

- Intangibles – Real Estate v. Non-Real Estate
  - Franchise Agreement – (Flag, Reservations System)
  - Management Agreement
  - Assembled Workforce
  - Personal Property
  - Restaurant/Convention Space



## Hospitality/Hotel Litigation

- **Methods for Separating Intangibles**
  - Parsing Income Method
  - Management Fee Method (Rushmore)
  - Market Participant Survey Approach
  - Cost Approach



## Hospitality/Hotel Litigation

- **Selecting Your Appraisal Approach**
  - Sales Comparison Approach
    - What was transacted?
  - Income Capitalization Approach
    - RE v. Intangible Income
  - Cost Approach



# General Trial Strategies – Know Your Venue



## Venue

- Administrative Hearing
  - Discovery?
  - Abbreviated hearing time
  - Attorney or appraiser as decision-maker?
- Jurisdictions w/ Tax Courts
- Jurisdictions w/ complex litigation divisions
- Jury Trial???



# General Trial Strategies – Know Your Judge



## Know your judge

Knowledge of real estate value issues

Judge's practice as an attorney

Eminent Domain

Property Tax

Knowledge of the subject property

Judge Shopping?!?



# General Trial Strategies – Know Your Judge



## Know your judge

### Acquiring advance indications of the court's inclinations

Motions to strike/motion for partial summary judgment

Get to know the judge

Get the judge to know you

Early indications of areas of concern



## Know Your Witness – Picking Your Expert Witness



- Local Area Expert
- Property Type Expert
- Litigation Expert



# Know Your Witness – Assessor’s Fact Witness



Who is your fact witness?

Person/s who developed the assessment

Manager of the department

Appraisal knowledge

Ability to communicate on the stand



# Know Your Witness – Assessor’s Fact Witness



**Can the elected assessor be forced to testify?**

Apex doctrine

(Also applies to head of corporation)



# Know Your Witness – Owner’s Fact Witness



**Should the owner testify?**

As to facts?

As to value?

Property Manager?



# Motions Before Trial

- **Motions to Strike**  
**(Appraisal, Affidavit)**
- **Motions for Partial Summary Judgment**
  - **Motions for Summary Judgment**  
**(Exemptions)**



# Opening Statements

## Written or Oral?

- **Written Opening Statement**
  - **More detail**
  - **Gives the court more time to digest the issues**
- **Oral Opening Statement**
  - **Immediacy**
  - **Ability to read court's reaction**



# Theme of the Case

- **Develop when you file/receive the lawsuit**
- **Be prepared to modify**
- **Don't go along with the opposing side's theme of the case**
- **Property tax cases are often theory cases**
- **Make it simple (or as simple as possible)**



# Make Your Life Easy At Trial



## **Pre-admitting documents**

- **Stipulations in advance of trial**
- **Request to Admit on foundation for documents**

## **Evidence Objections Notebook**

- **For each individual document**
- **Objections to opposing party's documents/testimony**
- **Responses to potential objections from opposing party**



# Setting Up The Appeal

**Definition of value**

**Definition of interest assessed**

**Unaccepted Methodologies**

**Violation of appraisal theory**

**Any *702/Daubert* issues (Methodology)**



# The Most Important Trial Strategy



**If you want to avoid trial, be completely prepared to go to trial.**



# The Most Important Trial Strategy





# Franz Reichelt – The Flying Tailor





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