

Discovery and Depositions in Property Tax Litigation

- I. Types of Discovery
 - a. Interrogatories
 - b. Request to Produce
 - c. Requests to Admit
 - d. Site Inspection
 - e. Depositions
 - f. Discovery to Non-Parties
- II. Timeline/Chronology
 - a. Discovery in the Era of Case Management Orders
 - i. Starting early
 - b. Macro to micro
 - c. Beginning at the end
 - i. Understanding the case/issues and theory of the case
 - ii. Be prepared to modify as issues arise
- III. Interrogatories
 - a. What are the issues?
 - i. Fleshing out the details absent from the complaint
 - ii. Eliminating surprises at trial
 - b. Who knows what? (Who will you be deposing?)
 - c. How do they know it? (Documents)
 - d. Timeframe requested
 - i. Documents and facts prior to date of value
 - ii. Documents and facts subsequent to date of value
 - e. Follow-up interrogatories
 - f. Standard interrogatories based on property type
 - i. Income producing properties
 - ii. Retail properties
 - iii. Industrial properties
 - iv. Multi-tenant office
 - g. Interrogatories specific to property tax issues
 - i. Owner's Interrogatories
 - 1. How was the assessment arrived at?
 - 2. Who participated in developing the assessment?
 - 3. Data used in support of the assessment

- a. Data from other property owners
 - i. Confidentiality
 - ii. Assessor's Interrogatories
 - 1. Most recent acquisition
 - 2. Income and expense
 - a. Rent rolls
 - 3. Cost to construct
 - 4. Recent capital improvements/repairs
 - 5. Planned capital improvements/repairs
 - 6. Known issues with property
 - a. Functional obsolescence
 - b. External obsolescence
 - c. Physical depreciation
 - 7. Offers to sell/purchase
 - 8. Appraisals
- IV. Requests to Produce
 - a. All the documents referenced in the answers to interrogatories
 - b. All the documents in support of other party's allegations
 - c. Timeframe requested
 - d. Appraisals/estimates of value
 - e. Quarterly reports/stockholder reports
- V. Requests to Admit
 - a. Documents
 - b. Basic uncontested facts
- VI. Site inspection
 - a. Scheduling
 - b. Owner's representative
 - c. Photos
- VII. Depositions
 - a. Fact witnesses
 - b. Identified witnesses
 - c. Expert witnesses
 - i. Appraisal and work file
 - ii. Authoritative texts
 - d. Remote or in-person
- VIII. Discovery to Non-party
 - a. Subpoena for documents

- b. Depositions
 - c. Information sought
 - i. Appraisals
 - ii. Construction costs
- IX. Out-of-State Discovery
 - a. Requests to Produce
 - b. Depositions
- X. Objections
 - a. Timeframe
 - b. Confidentiality
 - c. Relevance