New York Real Estate Journal
nyrej
THE COMMERCIAL REAL ESTATE MEDIA SOURCE

New York Real Estate Journal
Published semi-monthly for $99 per year by East Coast Publications
17 Accord Park Drive, Unit 207, Norwell, MA 02061

Printed by: Graphic Developments, Inc.
80 Mayflower Dr., Hanover, MA 02339 | www.graphicdevelopments.com

Periodicals postage paid at Norwell, MA and additional mailing offices.
$4.95 Single Copy, $5.95 Special Issue. Subscriptions are non-refundable

Publication #ISSN 1057-2104 | USPS #6603 | Vol. 36, No. 07

Mailing Address: P.O. Box 55, Accord, MA 02018
Express & Overnight Mail: 17 Accord Park Drive, Unit 207, Norwell, MA 02061
Phone: 781-878-4540 | Toll Free: 1-800-654-4993 | Fax: 781-871-1853
www.nyrej.com

POSTMASTER: Send address changes to New York Real Estate Journal,
P.O. Box 55, Accord, MA 02018 or
17 Accord Park Drive, Unit #207, Norwell, MA 02061

REPORT AN ERROR IMMEDIATELY

New York Real Estate Journal will not be responsible for more than one incorrect insertion.

Disclaimer:
The views expressed by contributing writers are not necessarily representative of the New York Real Estate Journal.

nyrej.com

Section Publishers

New York State
John Picard, x250, jpicard@nyrej.com

Billboard, Auctions, & Classified
John Picard, x250, jpicard@nyrej.com

Long Island
Kristine Wolf x245, kwolf@nyrej.com

Upstate
Mike Campisi x284, mcampisi@nyrej.com

New York City
John Picard, x250, jpicard@nyrej.com

Owners, Developers & Managers
Jeff Wallace, x240, jwallace@nyrej.com

Design/Build
Jeff Wallace, x240, jwallace@nyrej.com

Spotlights
Kristine Wolf x245, kwolf@nyrej.com

Section Schedules

WEEK 2	WEEK 4
New York City	New York City
Owners, Developers & Managers	Design/Build
Long Island	Spotlight
Upstate	

Production Staff

Mia Camelio, Editor, mcamelio@nyrej.com
Jeanne Hardman, Art Director, jhardman@nyrej.com
Kathi Ferry, Art Specialist, kferry@nyrej.com
Rocco Laugelle, Social Media Coordinator, rlaugelle@nyrej.com
billing@rejournal.com; subscriptions@rejournal.com

NYREJ Events

Rick Kaplan, rkaplan@nyrej.com
John Picard, jpicard@nyrej.com

A look inside this issue:

April 16, 2024

L+M Dev. and Osborne close on $126m deal for Marcus Garvey extension phase two

FEATURED ON PAGE 5

Question of the Month

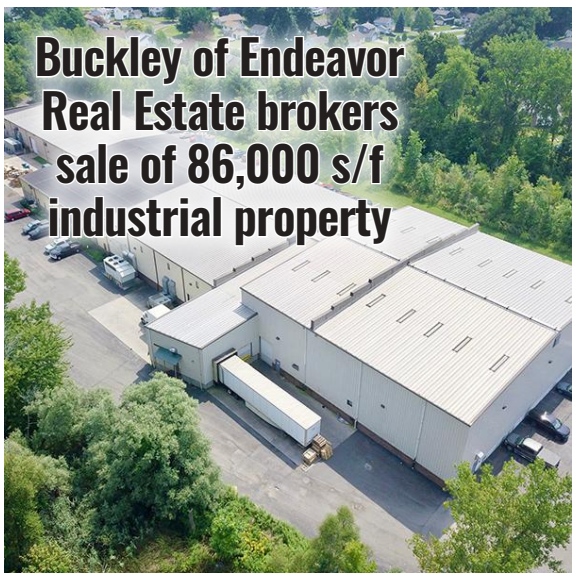
Does a recent sale impact property taxes? It all depends.

David Wilkes
Cullen and Dykman

FEATURED ON PAGE 22

Chang of Highcap Group sells 82-room Comfort Inn Hotel for $14 million

FEATURED ON PAGE 33



Buckley of Endeavor Real Estate brokers sale of 86,000 s/f industrial property

FEATURED ON PAGE 41

Cover Story: The Beechwood Organization 39
Shallini Mehra, Featured Columnist 6
OWNERS, DEVELOPERS & MANAGERS 15-32
Executive of the Month 18
Tallal Bhutta, Contributing Author 24
Christa Ouderkirk Franzi, Contributing Author 30
LONG ISLAND 33-40
David Hunt, Hunt Corp. CRE Q&A 34
UPSTATE 41-43
Professional Profiles 44

John Picard, x250
President
jpicard@nyrej.com

Kristine Wolf, x245
Publishing Director
kwolf@nyrej.com

David Denelle, x283
General Manager
ddenelle@nyrej.com

Jeff Wallace, x240
Publisher
jwallace@nyrej.com

Jillian Graham
Production Manager
jgraham@nyrej.com

QUESTION OF THE MONTH

Does a recent sale impact property taxes? It all depends.

David Wilkes
Cullen and Dykman

A recent, arm's length sale is often considered a strong indicator of a property's value. But a sale price can also mask considerations that went into a deal that would be unknown to an outsider, such as business motivations, financing terms, and retained interests. In the world of property tax, the use of sales as indicators of value for assessment is still more complex, requiring a thorough understanding of principles of valuation, definitions of "value", and the assessment practices of the local jurisdiction.

This is an area in which appraisal and law intersect, but not perfectly, and common sense is not often helpful. Most tax certiorari attorneys in New York state are familiar with the general rule about sales that has been restated by the Court of Appeals in several landmark cases: "the purchase price set in the course of an arm's length transaction of recent vintage, if not explained away as abnormal in any fashion, is evidence of the 'highest rank' to determine the true value of the property at that time."

Know the Local Playing Field

One might assume from this that a straightforward sale of the subject property would make simple work of determining its assessed value. As with most real estate issues, much turns on location. If your commercial building is located in New York City, generally the sale price is irrelevant for assessment purposes and may be disregarded, with a simple income approach to valuation being the primary method. In stark contrast, outside of the five boroughs is an entirely different playing field with different rules. In most of New York state outside the City, a recent sale can play a crucial role in determining the assessed value.

A large portion of the assessing jurisdictions throughout the state do not annually update or reassess properties on a municipal-wide basis, but some do. The relevance of a recent sale to the property tax load will be markedly different – sometimes the decisive factor in whether a deal proceeds or not, and whether taxes will increase or decrease – and it is therefore crucial to know the assessment system on a hyper-local basis.

For example, in a suburban town that does not regularly reassess its properties based on the market, a building that sells in an arm's length transaction for well above the assessed value may, by law, enjoy a disproportionately low property tax burden for many years. In that same town, another building that sells for a price significantly below the assessed value may be entitled to a large reduction in its annual taxes.

However, in a neighboring town that performs annual reassessments, a sale for a price that exceeds the current assessment is likely to trigger increased taxes, so much so in many instances that the proposed transaction no longer makes economic sense and the buyer may need to look at alternative options, including, under the right circumstances, the possibility of taking the property off the assessment roll altogether through an arrangement with the local Industrial Development Agency.

Sales and Valuation

The high court's heavy reliance on arm's length sales as evidence of the "highest rank" to determine property value, while often warranted, can also often overshadow important valuation nuances. Key here is the distinction between a leased fee and fee simple value. For property taxes, the standard is fee simple, which assumes that all rentable space, occupied or not, is at market rent, from which is deducted a market-based factor for vacancy and collection loss, as well as market-based expenses. Many sales implicitly prioritize in-place rents and actual occupancy which may skew the price more toward a leased fee value than fee simple. For example, an existing major tenant with an above-market rent may drive up a sale price and, in fairness, the tax assessor would be smart to adjust the value downward to account for the market. Likewise, a building with full but tenuous occupancy may sell at an optimistic value that does not account for the market's typical vacancy.

Not surprisingly, tax assessors notoriously tend to rely most heavily on sale prices when they help to support an assessment, disregarding important factors that may discount the true value. In some instances, a buyer may be uniquely motivated to purchase and is less interested in getting the "right" price than others in the market, such as where the purchaser may be under the duress of effecting a 1031-based exchange, or where the buyer needs to control the use of properties adjacent to its existing ownership; this might be the case where, for instance, a prominent retailer wants to ensure that a competitor does not acquire a neighboring property. The excess paid over market value is related to the value of the business, not the taxable real estate.

Another common circumstance occurs where a buyer over-pays just before a market downturn, e.g., the unanticipated onset of COVID spoiled many real estate projections, or where a major tenant suddenly goes out of business leaving a gaping hole in a pro forma that is difficult to refill without much unexpected time and cost.

In all of these scenarios, the notion of a recent sale price being prime evidence of value must be tempered by a realistic review of the current market, motivations of buyer and seller, adjustments based on recent net operating income and occupancy, and, most important, an in-depth understanding of the local jurisdiction's assessment system, which can be radically different depending on location within New York state.

David Wilkes is a partner at Cullen and Dykman, Manhattan, N.Y.

Cullen | Dykman

BUILD YOUR FUTURE ON
170+ years of legal expertise.

New York | New Jersey | Washington, D.C.
cullenllp.com

Strategically positioned to meet the changing needs and demands of our clients, our Tax Assessment, Eminent Domain and Property Valuation attorneys bring a wealth of experience encompassing a wide spectrum of issues across New York and New Jersey.

© 2024 Cullen and Dykman LLP. All rights reserved. Attorney Advertising.