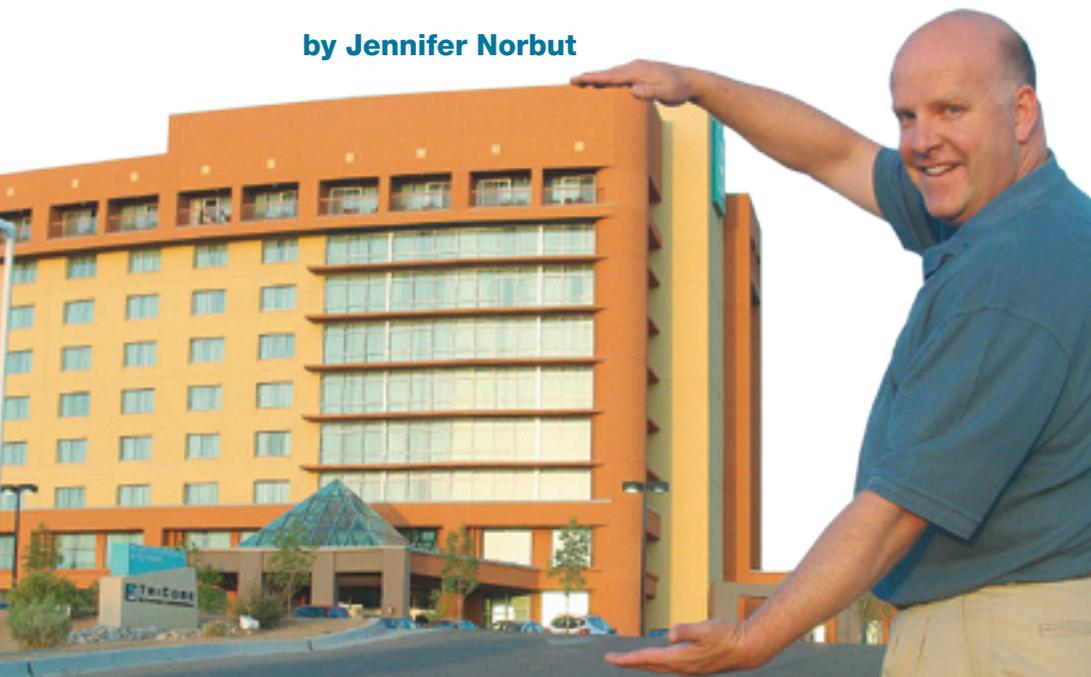


Tax Squeeze

This CCIM discusses his recession-resistant consulting service.

by Jennifer Norbut



The feeble transaction market is pushing commercial real estate professionals to expand their scope to include non-transaction services that clients need in today's shaky economy. Tax consultation, particularly property valuation protests, is a recession-resistant service that is frequently overlooked by both industry professionals and their clients.

Todd D. Clarke, CCIM, chief executive officer of NM Apartment Advisors and Cantera Consultants & Advisors in Albuquerque, N.M., says property tax value protests can be a lucrative, business-enhancing specialty in all economic conditions. And the tax benefits for property owners — on average Clarke's clients receive a 24 percent value reduction — greatly improve a

property's net operating income.

Commercial Investment Real Estate asked Clarke, who has handled more than 1,000 property tax valuation cases, to discuss some of this specialty's highlights.

CIRE: Is the slow transaction market making it difficult to assess values right now?

Clarke: The lack of comparable sales is making it tough. This year we expect to do quite a bit with the mark-to-market accounting issues and use discounted cash flow to show possible values.

CIRE: What types of clients are protesting their properties' values right now?

Clarke: Clients run the spectrum, ranging from homeowners

to large institutional clients. But the ones who have something unique or unusual occurring with their properties are most likely to receive a value reduction. For example, we recently had a client with a nine-story building in downtown Albuquerque that was 100 percent vacant and its configuration made it functionally obsolete. As a result, we were able to drive a value reduction from \$9 million to \$1 million.

CIRE: How do value reductions affect a property's market value if owners decide to sell?

Clarke: It's really a win-win opportunity. Reducing the property taxes reduces expenses, which increases the property's net operating income and ultimately its value.

CIRE: What's involved in the value protest process?

Clarke: Once a protest has been filed, the owner or the tax protesting agent must prove the proposed new value is more accurate than the assessor's value. Typically, the agent completes a report that demonstrates the property's value using the income approach, comparable sales, and replication costs. But many other valuation methodologies and types of market data can be included in the report.

CIRE: So does providing these extra materials ensure protesters will successfully reduce their properties' assessed values?

Clarke: Not necessarily. Sympathetic assessors usually take this information into account and negotiate with the owner and agent to reach a new value. Hard-nosed assessors may dial up the pressure on the owner, using legal maneuvers such as filing subpoenas and interrogatories, as well as taking depositions from the owner, managers, and staff. In situations where a value cannot be agreed upon, the owner and agent sit before a formal

hearing board that decides whether to rule in favor of the assessor's value or the owner's value.

CIRE: Are you working on any challenging cases right now?

Clarke: We have a client who owns three properties north of Albuquerque, and we're currently in our third year of value protests. The assessor was driving higher values than the market could support, even though the assessed values were close to what the client paid. The first year's protest was one of our hardest cases ever. Though the system is geared toward helping taxpayers, this assessor seemed to have it out for our client. To make a long story short, we won the case the first year using our standard valuation techniques.

Taxes were increased the second year, which is very unusual, and the assessor came back again equally aggressive. So we included in our report an overwhelming amount of information from STDB online.com and industry trade publications that supported an even lower value. We also compared the tax per unit on our client's property versus similar properties in the county. We won the case.

Now, for the third straight year, the assessor has increased the value. We've contacted a number of similar property owners in the area and intend to represent a group of them to hopefully secure a fairer tax value for all.

CIRE: How do you charge clients for this type of service?

Clarke: We do this entirely on a contingency basis, charg-

ing one-third of the money we save the client. We have a success rate of 99 percent on our protests. But if we spend 40 hours analyzing a property and can't get a value reduction, it doesn't cost the client a penny.

CIRE: What type of training helps you with this aspect of your brokerage?

Clarke: CCIM Institute's CI 101 course skills of valuation analysis and application of industry benchmarks as well as skills taught in the CI 102 course, including market analysis and the ability to map out national and regional trends and apply them to the respective property's submarket.

CIRE: Are there any pitfalls to watch out for when protesting a property's value?

Clarke: Yes, there are many. Specifically for us, New Mexico is a non-disclosure state, so the assessors generally have limited access to a property's information. But once an appeal is filed, it is similar to filing a lawsuit — the rules of discovery apply and either party can call for depositions. The assessors also can serve subpoenas and interrogatories. So you absolutely must know the intricate details of the state's tax code.

CIRE: Do your tax clients generally translate into future business?

Clarke: Yes. When you serve your clients long before a transaction occurs and your results add value, guess who they think of first when it comes time to buy or sell?

Jennifer Norbut is senior editor of *Commercial Investment Real Estate*. Do you have a story worth sharing in CCIM Q&A? Send ideas to jnorbut@ccim.com.