



nerej

Tax abatements for condominium units

November 17, 2011 - Front Section

We are in fiscal year 2012 which began on July 1st, and ends on June 30th, 2012. Now is the time to review the assessments on condominium units. In the event the assessment exceeds the fair cash value as of the "relevant date," which was January 1st, condominium unit owners should consider filing an application for abatement with the local board of assessors. We would be happy to assist condominium unit owners with completing the application. Boston has its own application which should be used in place of our application.

Most municipalities in Massachusetts send out quarterly tax bills. The first two are merely preliminary bills. The third bill, which is sent after the tax rate has been set, is an actual bill.

The application for abatement must be filed with the board of assessors not later than the date for paying the actual bill. Assuming that the bills are mailed by December 31st, the due date both for payment of the tax and for filing the application for abatement is February 1st, 2012.

The board of assessors then has 3 months to act on the application for abatement. In the event that the board of assessors fails to act within 3 months, the application is deemed denied. A condominium unit owner who is unhappy with the decision of the board of assessors can file a petition/appeal for abatement with the Appellate Tax Board within the 3 month period following the decision of the board of assessors. The time limitations are very strictly enforced.

A condominium complex will have greater leverage if a large number of unit owners file applications for abatement and petitions/appeals together. The larger the number who file, the more leverage the unit owners will have to obtain a favorable settlement with the board of assessors. In the event there is a need to hire an expert appraiser, it obviously is cost effective to spread the cost of the appraiser among a large group of unit owners. Lawyers almost always get paid on a contingency basis. Therefore, the only costs to the unit owners are the fee to the appraiser and the filing fee paid to the Appellate Tax Board. There is no filing fee paid to the board of assessors.

Given the weak market for condominium units, many condominium units in Mass. are assessed for far more than their market value. Therefore, condominium unit owners should be aware of the need to examine assessments and decide whether it makes sense to file applications for abatement. Property management companies and condominium trustees can provide a valuable service by alerting unit owners to this issue.

During 2011, we were able to negotiate a very favorable settlement for over 60 condominium unit owners in one development. The developer had auctioned a large number of units in this development for prices which were less than half of the assessed values. The negotiated settlements were closer to the auction prices than to the assessed values. The board of assessors, by settling days before the hearing at the Appellate Tax Board, essentially acknowledged that an auction can determine the fair cash value of condominium units.

Saul Feldman is a real estate attorney with Feldman & Feldman, P.C., Boston, Mass.

