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## **Partial interest valuation of real estate - A case study - by Marc Nadeau**

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## Partial Interest Value ~ The Concept

Partial interest valuation is a technique used by appraisers and other valuation professionals to estimate the value of a fractional interest in real estate. Fractional interests in real estate result from the owner's ownership of less than 100% of a given property. The technique involves the valuing of a fractional interest in real property with a discount factor being applied to that fractional interest. Reflective of what could be a number of factors including, but not limited to the nature of the property, the percentage or ownership and the management structure in place an appropriate "discount factor" is chosen by a valuation professional. Ownership of a partial interest in real property ownership can manifest itself in a number of forms. Those ownership forms include, but are not limited to: general partnerships, limited partnerships, REITs, joint tenancy, tenants in common, tenancy by entirety, family trusts and ownership of shares in a limited liability corporation.

The transfer or conveyance of a partial interest can arise from any number of events including: divorce, partnership dissolution, estate planning, donation or sale of a partial interest to an unrelated party and so on. In theory, partial interests are almost always worth less than their fractional value. For example, a \$1 million dollar property owned by five different owners, each with a 20% interest, would in pure mathematical terms have a value of \$200,000 for each interest. That 20% interest, were it to be marketed or sold to another party would be considered a minority interest.

The nature of a minority interest is that it typically has the following characteristics:

- Lack of marketability;
- Longer than typical marketing time;
- Lack of control;
- Limited or no ability to refinance the property; and
- Limited ability to influence decision-making policies.

Discounts associated with a partial interest can typically range from 20% to 60% of the proportionate value of the interest as it relates to the entire property. In the case of the \$200,000 fractional interest above, a discount factor would be applied to the fractional value.

## The IRS perspective

The perspective or position of the IRS has frequently been that the discount applied to the fractional interest be limited to the actual cost of partitioning a property. The courts fortunately, have generally recognized that this is both unreasonable and illogical. The fact is that fractional interests for the most part have a very limited market appeal to the general marketplace with the range of appeal varying by the type of property and the percentage of ownership.

The IRS Training Manual for Appeals Officers in fact recognizes and cites several factors that could influence the size of the discount. The following factors are listed in the manual:

The number of owners;  
The size of the fractional interest;  
The size of the tract;  
The use of the land;  
The availability of financing and finally; and  
The cost of partitioning (dividing) the land.

## Valuation Methodology

The following steps would be involved in valuing a partial interest:

1. Value the property in its entirety;
2. Calculate the value of the proportionate share in the property by taking the 100% value of the property times the percentage of property owned;
3. Determine an appropriate discount for the partial interest;
4. Calculate the value of the fractional interest by multiplying the value of the "proportionate share" times the discount rate.

Discount Rates ~ What are appropriate rates?

Reflective of the fact that partial interests have very limited marketability there is certainly a lack of empirical market data that appraiser's can draw from. One of the best benchmarks for determining an appropriate discount would be court cases.

The following is a summary of relevant court cases that involve partial interest valuations:

In the case of *Lefrak vs. Commissioner* the court did not consider fractional discounts as compelling evidence because security owners do not have the right to force partition (the shares were part of a corporate entity). However, the Court did allow a 30% discount for a minority interest and a lack of marketability.

In the case of the *Estate of Cervin vs. Commissioner* the Court allowed a 20% discount for a 50% undivided interest in a homestead and farm. The legal costs along with the time delays and discounts required by a prospective buyer were reasons for the granted discount.

The case of *Williams vs. Commissioner* involved the transfer of a 50% interest in 2,360 acres of rural land and its timber in Putnam County, Florida. The court found a discount of 44% to be reasonable. The discount factored in the cost of partitioning, the longer than typical anticipated marketing time and the lack of control.

The case of the Estate of Baird vs. Commissioner involved minority interests of timberland located in Louisiana. The plaintiffs specifically in this case were that of the Estate of John L. Baird and the Estate of Sarah W. Baird who were married at all pertinent times. John died on December 18, 1994 while Sarah died less than 1 year later on November 2, 1995. At times of death, John held a 14/65 interest while Sarah held a 17/65 interest in a trust that owned 16 noncontiguous tracts of timberland comprising 2,957 acres.

Both estates claimed a 60% discount on the tax returns with the plaintiffs mounting an impressive case that involved the testimony of two real estate appraisers that had extensive experience in valuing timberland as well as a third expert witness that had the experience of actually purchasing partial interests of like timberland. The appraisers, by product of analyzing actual partial interest sales of timberland arrived at discounts of 55% and 36% respectively while the timberland expert claimed that the discount should be 90%, while the written report prepared by the same expert claimed "at least a 55% discount." The court found that a 60% discount was reasonable and supported.

In the case of Ludwick vs. Commissioner the valuation scenario involved a highly valuable vacation home in Hawaii, where two owners each had a 50% interest in the property. Separately, the two owners transferred their interest in the property to separate Qualified Personal Residence Trusts (QPRT). On their tax returns, each reported the value of their 50% undivided interest at a 30% discount for lack of control and lack of marketability. After audit, the IRS allowed a 15% discount, while the taxpayer's expert concluded that a 35% discount was appropriate. The IRS's expert argued for an 11% discount. The court decision was to allow for a 17.2% discount. This is the first known case of a valuation of fractional interest gift to a Qualified Personal Residence Trust (QPRT).

#### Empirical Market Data ~ Partial Interest Sale

Locating actual sales of a partial interest is like finding a needle in a haystack. Given the lack of marketability combined with the difficulty of verifying such a transaction can leave appraisers very little to work with. Presented below is an example of a partial interest sale that the readers of this article may find useful in their own analysis of a partial interest:

#### Case Study ~ Sale of Partial Interest

This study involves the sale of a 1/5 interest in a property identified as Uncas Point Road located in Guilford, Connecticut. The parcel is a vacant, non-buildable waterfront parcel that contains .67 acres and was owned by 5 separate owners, each with an undivided 1/5 interest in the land. The value of the parcel is that it provides access to and has frontage along the harbor.

#### Established factual information of Case Study

Grantor: Jonathan Wallace

Grantee: Carolyn Matthes

Sale Date: July 1, 2010

Sale Price: \$ 3,750 plus \$1,000 in assumed property taxes

Volume/Page: 801/340, Warranty Deed  
Interest Purchased: 1/5 fee simple interest.

#### Additional Facts for this Case

An independent appraiser appraised the property on September 24, 2007 for \$75,000. With documented time adjustments the value of the property as of July 1, 2010 (the conveyance date) would have been \$52,500. \$52,500 divided by 5 = \$10,500. \$10,500 would be the value of a 1/5 interest before factoring in any discount. The discount factor derived from this sale would be 55%.

This appraiser interviewed both parties, both of who indicated that they were each acting in their own best interest. Matthes is a neighboring property owner who lives across the street from the parcel and is attempting to purchase the entire parcel in pieces in order to have a full, undivided fee simple interest in the parcel.

#### Current Partitioning Action

Happening in recent years was a partition action on a residential property in Guilford, Connecticut wherein a father and daughter (who do not get along) each owning a 50% interest in a residential property that the daughter lives in. The father, who is elderly, wants his value in the property hence a partition action had been started by the father's counsel to partition the property and force the sale of the property. An example of a cost of this partition action for this particular property, which at best might have a value of \$500,000 might be calculated as follows:

Sale Price: \$500,000  
Less: 6% Sales Commission: \$ 30,000  
Legal Costs (partition action): \$20,000  
Taxes (Annual): \$16,000  
Appraisal: \$500  
Closing Costs: \$2,000  
Total Costs of Sale & Holding: \$67,500

Discount Factor Derived (mathematically)  $\$67,500/\$500,000 = 13.50\%$

This benchmark serves as a real-life partitioning action.

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