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Client Alert: Hotels Should Start Preparing Now for Property Tax Appeals

As hotels and other hospitality businesses suffer from the COVID-19 lockdown, it's important that they move quickly and proactively to lower their property taxes. In many states they'll be able to lower the amount they owe as a matter of law; in the others, it's a matter of common sense.

The pandemic and subsequent lockdown has emptied hotels, commonly dropping occupancy from 80-90% to record lows and forcing widespread, temporary closures in cities like Chicago and New York. Even as hotels begin to reopen, the remainder of 2020 looks grim: they'll get little if any revenue from corporate events, weddings and the like – and a resurgence of the virus across the country will likely put a damper on already-sluggish business and leisure travel.

The resulting loss of operating income gives hotel owners and operators a strong argument for lower property-tax valuations. In appealing their assessments, hotels should be prepared to demonstrate how the pandemic has directly impacted their business income.

In some states, financial statements should be sufficient to lower hotels' tax bills. California, for example, requires assessors to consider diminutions in value caused by "calamity," including pandemics. A handful of other states have similar provisions. And while most, including Illinois,

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don't specifically list pandemics, it's not a stretch to argue that COVID-19's impact was just as damaging to the business's value as a tornado or flood.

In most states, the law is silent on the impact of calamities. For businesses in those jurisdictions, the argument will be based on common sense – backed by clear, convincing financial data. By almost any valuation method, including the Rushmore Approach, the losses wrought by COVID-19 will cause severe, demonstrable impairment of asset value.

Owners and operators should immediately start marshaling the necessary financial data in anticipation of filing appeals, regardless of when they expect to receive property tax bills.

Even though the case for lowering hotels' assessments may seem unassailable, assessors likely won't accept it without a conversation. The pandemic has also done significant damage to state and local government revenues, so assessors everywhere will be fighting for every cent.

Still, in most jurisdictions, this won't mean abandoning common sense. Hotels that show a clear link between the COVID-19 lockdown, their operating income and property value, should have little trouble arguing the fairness of lower assessments.

If you have questions about this guidance or any other matters related to property taxes, please contact Tom McNulty or your Neal Gerber Eisenberg attorney.

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