

Apartments finally get a break

By Paul Pennington

As a result of a recent lawsuit settlement against the Dallas Central Appraisal District, many multifamily property owners in Dallas County may benefit, by now having the basis to request reduced valuations on their 1992 personal property assessments.

The suit was filed by the law firm of Johnson and Gibbs in August of 1990 and coordinated by P.E. Pennington & Company on behalf of six of its clients who collectively own 35 apartment complexes. It was contended that the District had "double assessed" their properties by placing a separate valuation on their fixed assets (personal property), as well as a valuation on their real property which already reflected the "total" market value of the properties in question.

In explaining the background of the issue, the double assessment occurs when a taxpayer or their appointed agent reaches a valuation settlement on an apartment complex with the District using either the income approach, market approach (purchase price or comparable sales of like properties), and/or using an independent fee appraisal which incorporates the income, market and cost approaches to value. When P.E. Pennington & Company, acting as an appointed agent, agrees to a valuation settlement during the informal or formal negotiations (using one or all of three approaches of determining value), we believe that the agreed upon value should represent the total market value of the property. The Dallas Central Appraisal District, however, disagreed and stated that the "agreed to value" represented only the real estate value of the property and that the additional valuation assessment on the fixed assets located within the apartment complex was needed to assess the property's total market value.

For example, if the District had a real estate assessment of \$5,500,000 on an apartment complex and an additional assessment of \$100,000 for personal property located within the complex, the sum total of these assessments would equal

\$5,600,000. If the property owner and/or their agent could prove that the market value of the apartment complex in question was \$5,000,000, the District would, as a matter of policy, agree to reduce the real estate assessment from \$5,500,000 to \$5,000,000. However, the District would not adjust the personal property assessment of \$100,000. Thus, the sum total of the adjusted, appraised values of the property would be \$5,100,000, or \$100,000 over the market value. The \$100,000 would result in additional taxes of approximately \$2,000, which remains in effect year after year, thus compounding the over-assessment indefinitely.

In appealing this valuation practice to the Dallas Central Appraisal District Review Board, we emphatically pointed out that this policy creates a vehicle whereby apartment complexes are "double assessed". Further, in some cases, this policy results in thousands of dollars of additional taxes for property owners. In that the Appraisal Review Board is charged with establishing the "market value" on protested property assessments, we requested a reduction and/or elimination of the personal property valuation assessment(s) so that the total combined valuations would reflect the total market value of the property. Once again the District did not concur and stated that the practice of assessing an additional valuation for personal property on multifamily properties is simply the policy of the District and that no exceptions could or would be made.

During the litigation proceedings P.E. Pennington & Company successfully established that this practice did, in fact, constitute a double assessment of the apartment complexes involved in this lawsuit. Subsequently, an out-of-court settlement was reached with the District in which they agreed to set the multifamily personal property assessments at ten dollars per unit, not only for the 1991 tax year but also retroactive to the 1990 tax year. This settlement effectively reduced the personal property taxed paid by these property owners from thousands of dollars to tens of






dollars. In fact, the personal property assessments were reduced to a level where they are no longer a significant factor in assessing the taxable market value of those multifamily properties.

In that this settlement constituted an apparent change in policy by the Dallas Central Appraisal District, we further requested similar reductions on other apartment complexes represented by P. E. Pennington & Co. for tax year 1991, and were granted additional reductions by the District.

While the practice of double-assessing multifamily properties has been a policy of the Dallas Central Appraisal District since its inception in 1981/1982, to the best of our knowledge, this is the first time that a property tax firm, representing a large group of multifamily property owners, has addressed the issue with the District via litigation. This same argument has been recognized by other appraisal districts throughout the state, who have discontin-

ued the practice of double-assessing apartments within their districts in recent years.

We at P.E. Pennington & Company recommend that multifamily property owners should request the reduced personal property assessment for the tax year of 1991, not only in Dallas county but in any other counties which double assesses the apartments. By eliminating and/or reducing apartment personal property assessments, thousands of tax dollars could be saved. ▲



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