

# Florida Real Estate Journal

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## My property is assessed at WHAT?

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Many Florida real estate owners and investors would be reasonable to think that with all the media coverage regarding foreclosures and the declining value of real estate, 2008's property tax bill should go down based on reduced valuation.



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However, with the federal government fiscally unable or unwilling to assist county governments with funding local government projects such as public schools (buses run on diesel) and roads, that result would seem unlikely.

Property tax valuation is based on several subjective factors, including last year's bill. It is also fair to say that in hindsight, the previous few years' real property tax assessments had been overinflated by an overinflated market.

It would be fair to say that county governments should not take advantage of the same unwary taxpayers who fell victim to that same real estate "bubble" for which they all now pay dearly. Whether the county property appraisers will recognize the real estate "bust" is about to be revealed.

### **Q: When will I know if my property tax valuation was overinflated?**

A: In Florida, your county revenue collection division will send out its preliminary assessments on or around Aug. 22 for tax year 2008. "Tax year 2008" concerns the valuation of your real estate on only one day, Jan. 1, 2008. Unfortunately, by law, if you don't receive your proposed bill, it is your duty to go to the revenue collector's office to find out their latest valuation.

Tip: Contact your county property appraiser's office (or your mortgage lender if you escrow your taxes monthly) by Sept. 1 if you have not received your proposed property tax assessment. It will boldly read "THIS IS NOT A BILL." Don't throw it away, as this "NOT A BILL" carries at least a partial description of your legal rights to reduce it.

### **If I disagree with the County Property Appraiser's Valuation, what are my Rights?**

Of course, if you agree that your real estate is worth what the "NOT A BILL" says, then certainly you can throw it away. However, if you have an issue with the valuation of your property on the "NOT A BILL," one of your rights is to file a petition with the Valuation Adjustment Board, where you can informally and impartially have your valuation controversy heard by a three-member panel, none of whom are part of the property appraiser's office.

Tip: You have 30 days from the date the "NOT A BILL" was mailed (look at the date on the notice) to file a petition with the VAB and start enforcing your rights if you believe your valuation is incorrect. Here, while the "NOT A BILL" mentions nothing about legal counsel or evidence to be presented, make no mistake. This is an evidentiary hearing that has various deadlines and procedures to be followed without forfeiting important rights in the VAB process.

### **What factors does VAB take into account in valuing my real estate?**

Under Florida law, the VAB (as does the property appraiser) takes the following factors into consideration: the present cash value of the property, which is the amount a willing purchaser would pay a willing seller; the highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulations; location; quantity or size; cost of said property and the present replacement value of any improvements; the condition of said property; the income from said property; and the net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements.

Even a quick reading of the law shows that the art of valuation is one of a subjective nature - based on influential but not dispositive facts. That is why it is not only important to hire a lawyer, but also a licensed appraiser who can contest the artist's depiction of value by using facts competitive or contradictory to those used by the county property appraiser. Hopefully, your artist will paint a rosier picture of valuation for you than did the taxing authority before the VAB.

### **What if I don't like the VAB's answer?**

Coincidentally, you have the same rights concerning the VAB's answer, as does the property appraiser. If either of you do not like the answer, either has the right to go to court and can do so through the Florida judiciary or the Florida Division of Administrative Hearings (DOAH). This choice of venue, if you feel you are the "losing" party, also has sufficient procedural and substantive considerations that would further justify the hiring of a lawyer.

## **Does it matter whether my real estate is residential or commercial?**

While some other factors make the valuation of commercial real estate marginally different from the valuation of residential real estate, the main difference is that the commercial developer of 100 homes or commercial owner/lessor leasing 100 office spaces has a problem that is exponential, in dollars, to that of the single property homeowner.

Moreover, the complexities of financing and market conditions can greatly effect the valuation of the commercial property in ways far different than that of the individual property homeowner.

And, finally, given even the simple existence of something called “distressed property,” it is easy to see that, without a marketplace, the typical cash outlay for real property taxes is an expense that can be large enough that, if saved, can at least provide the developer the time and hope to weather the recent storm of bankruptcies and foreclosure activity on their industries.

## **So what do I do?**

The Florida Legislature has gone to great lengths to establish all property owner's rights to fair taxation under the Florida Statutes. However, most folks, do not exercise their rights either because of immateriality in amount, or simply to sustain the pleasure they felt during the “bubble.”

Hence, there may still be a silver lining to this cloud of recent real estate darkness. The “silver lining” is that, if nothing else, the recent and quick real estate downturn should alert all that it is not a “gimme” that real estate always goes up in today's fast paced, global, valuation environment. And, in that same vein, it is likewise not a “gimme,” (nor should it be) that your real property tax assessment is set in stone. After all, looking back only two years, can you honestly say that you paid tax on the correct valuation of your real estate holdings? Many would say no!

Like most things in life, although it is a process (like buying real estate or drafting your will), it is a process where an experienced professional can assist you in adding long-term value to your time and professional fees spent. So, in late August, start checking your mailbox, as there may not be a valuable coupon inside but an opportunity to save on your monthly expenses in the long term.

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