Sensible Solutions

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OVERVIEW OF REAL ESTATE TAX INCENTIVES IN COOK COUNTY

Special Interest Articles

About Our Law Firm

We are comprised of seasoned and dedicated professionals who familiarize themselves with our clients' industries as well as their legal issues. We strive to maintain long-term client relationships by keeping our clients fully informed and respecting their time and business resources.

LEGAL PRACTICE AREAS:

- ***Banking and Creditors' Rights***
- ***Corporate and Other Business Transactions***
- ***Defamation, Privacy and First Amendment***
- ***Employee Benefits***
- ***Employment Law***
- ***Estate Planning, Probate and Trust Administration***
- ***Health and Fitness Industry***
- ***Independent Sales Representatives***
- ***Intellectual Property Law***
- ***Litigation and Alternative Dispute Resolution***
- ***Mergers, Acquisitions and Business Sales***
- ***Real Estate and Finance***
- ***Real Estate Tax Reduction***
- ***Securities, Futures and Derivatives***
- ***Trade Associations***

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The Cook County Assessor has recently announced the schedule of filing dates for filing assessed valuation complaints for the 2020 reassessment. For 2020, there are 17 townships in the south and southwest suburbs that will be receiving triennial reassessment notices for tax bills, and which will be issued and payable in 2021. Those townships in the City of Chicago and the north and northwest suburbs will be reassessed only if there has been a change due to division work, permit applications, or other special applications, including prior one-year vacancy relief.

Taxpayers should be on the alert for notices of reassessment. The first notices will be issued in February for River Forest, Riverside, and Oak Park townships. Notices for additional townships will then be issued over the next six months. In general, property owners seeking to contest the proposed assessment must file their complaint within 30 days of the date of the notice.

Many taxpayers are not aware of the incentives that are available for qualifying commercial and industrial properties. Those properties which are eligible can receive reductions of 60 percent of their assessment for a period of ten years, with gradual fade-ins to the normal level of assessment in years 11 and 12.

In Cook County, commercial and industrial properties are assessed at 25 percent of fair market value. If a property qualifies for an incentive, the assessment level will be reduced to 10 percent for the first 10 years, then 15 percent in year 11, 20 percent in year 12, and then subsequently the assessment will return to the 25 percent level, unless there is a renewal of the incentive.

There are many types of incentives available. These include the reoccupancy of properties which have been vacant and unoccupied for 2 years or more, those properties which have been substantially rehabilitated, properties qualifying for landmark status, and properties which have been environmentally contaminated and are remediated by an entity which did not cause the contamination. In order to be eligible for these incentives, an application must be filed in a timely manner with the municipality in which the property is located, which will then enact an ordinance approving the property for the Incentive. An application for the incentive must then be filed with the office of the Cook County Assessor in a timely manner. There must also be compliance with the Cook County Living Wage paid to all employees.

Class C is an incentive for the remediation of contaminated properties, including abandoned property or vacant land. To qualify for the incentive, an applicant must remediate the property and have spent at least $100,000 for the remediation costs, or at least 25 percent of the market value of the real estate as determined by the Assessor, and must obtain a No Further Remediation letter from the Illinois EPA.

Another frequently obtained incentive is the 6B incentive for industrial properties for which there is (a) new construction, (b) substantial rehabilitation, or (c) reutilized or substantial recovery of abandoned property. Abandoned property is defined as buildings and other structures that have been vacant and unused for at least 24 months and repurchased for value by a purchaser in which the seller has no direct financial interest. There can be an exception to the 24-month requirement if the municipality or the Cook County Board finds that special circumstances justify finding that the property is "abandoned" for purposes of the Class 6B.

The Class L Incentive is for properties which have been deemed to meet the standards of the local Preservation Commission, which must certify a property as an historic or landmark structure. The structure must be approved by a Certified Local Government, pursuant to its criteria which have been certificated by the Illinois Historic Preservation Agency.

Additional incentives may be obtained for properties which will be built in areas determined to be in need of commercial development (Class 7 and Class 8). The same also applies to properties providing new development or rehabilitation of affordable multi-family rental housing containing 7 or more rental units. At least 35 percent of the units within the multi-family properties should have units that are designated at rents affordable to low- and moderate-income persons (Class 9), and Class S which is for property subject to a project-based Section 8 contract. Class 9 and Class S properties are subject to review and approval under the US Housing and Urban Development "Mark up to Market" (MUTM) option.

There are numerous requirements which must be met in order to obtain the incentives described above, and it is best practice to consult counsel before commencing any activity which may give rise to obtaining the incentives.

For more additional information, contact Terry Engel at terry.engel@sfnr.com.

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THE 'BANE OF LITIGATION': DISORGANIZED AND DISRUPTIVE DEPOSITION PRACTICE

Successful Settlement

Gerald Newman and **Andrew Bell** were able to achieve a successful settlement for an independent manufacturer's rep client in a Wisconsin state franchise tax nexus case. The state tried to impose corporate income and franchise taxes on our client following an audit by the Wisconsin Department of Revenue. We established that, as an independent sales representative, the client did not have sufficient contacts with Wisconsin. After an appeal, the state agreed with our analysis and our client paid only a minimal fee.

Speaking Engagements

On January 22, 2020 Partner **Adam Glazer** presented to the Manufacturers' Agents Association for the Food Service Industry (MAFSI) at a conference in San Diego, CA. The title of his presentation was "Contract Strategies for the New Decade."

Partner **Dan Beederman** spoke at the Heating, Air-Conditioning and Refrigeration Distributors International (HARDI) Annual Conference in December 2019. Speaking to the Manufacture Rep Council, he presented "Putting the Success in Succession Planning for Sales Representatives" which covered how to value a sales rep agency, ways to structure the deal, tax considerations and necessary contract terms.

Notable Case Mention

The Firm's involvement in a notable case between Pastor James MacDonald and Erich "Mancow" Muller was highlighted in an article published by the Chicago Tribune on February 2, 2020. **Phil Zisook** represents James MacDonald.

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If you have a LinkedIn account, please take a moment to follow our Firm page. We post new articles (not always included in our Firm newsletters), as well as Firm news and accolades.

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When the opening paragraph of a decision on a discovery motion calls the case a "poster child of why courts have expressed concern that misconduct in discovery is occurring with increasing frequency," and cites other rulings describing pre-trial discovery as "a monster on the loose" and "the bane of modern federal litigation," the lawyers and their clients should read the second paragraph sitting down.

Before delving into the deposition run amok that inspired such colorful descriptions, it is worth mentioning that thorough preparation, a tight focus and experienced counsel on both sides usually avoids the hot mess that confronted Magistrate Judge Jeffrey Cole of the Chicago federal court in Sokolova v. United Airlines, Inc. (January 21, 2019) (a case not involving our firm).

However, in litigation where "nastiness and inappropriate and improper interruptions and misdirection – operating under the guise of cleverness" – prevail, the monster is set loose.

Olga Sokolova sat for her deposition after suing United Airlines under international conventions (both Warsaw and Montreal) when difficulties and delays allegedly plagued her travel from Chicago to Tbilisi, Georgia with a stopover in Warsaw.

United's counsel moved for sanctions based on the conduct occurring in that deposition. Plaintiff Sokolova, 70-years old and in poor health, spoke both Russian and English, but a Russian interpreter was present, and a strong-minded one at that.

Trouble was afoot from the beginning. The mundane administration of the oath to tell the truth got bogged down when plaintiff's counsel objected to the accuracy of its translation.

United's counsel began the deposition with questions the judge considered "irrelevant, a waste of time," and "contrary to the basic purpose of a deposition, which is to gather relevant information." For "no apparent reason to do with this case," Sokolova was asked about her emigration from Russia 25 years earlier, the Lautenberg Amendment (to the federal Gun Control Act), the persecution of Soviet Jewry, when she met her husband, whether her parents were still alive, and how many children she had and with whom.

The interpreter soon interjected herself, protesting that Sokolova was not stopping after each phrase, and Sokolova, in turn, objected to the translation, including using "few" and "several" as though synonymous. Asserting that "all my efforts are being met with animosity," the interpreter made no effort to fade into the background, as is customary.

Soon, the "irrelevant and provocative questioning" resumed, as United's attorney inquired about when Sokolova's father died, how often she returned to visit Moscow, how often she had flown since the incident, and how she made her reservations. Growing tired, Sokolova observed "so many questions and we don't even touch the point here."

Noting the time, Sokolova asked to test her blood sugar, prompting the interpreter to share that she grew upset at the sight of blood. A half hour break followed, during which plaintiff's counsel learned a school pickup would require him to leave early. The United attorney responded by threatening to resume another day if they didn't finish, and then asked Sokolova how she arrived at the airport for her flight.

The deposition hijinks continued with plaintiff's counsel claiming the interpreter missed testimony about her having to taxi across Warsaw with her luggage. In the ensuing exchange, counsel challenged her professionalism, and called her translation "mediocre" and laden with "continuous errors in translation and mistakes," while the interpreter labeled him "rude and obstructive and very impolite, very unprofessional."

With this, United's counsel continued the deposition to a later date. When they resumed, the same interpreter inexplicably returned, a decision Judge Cole later second-guessed ("it may have been wise to engage a different translator . . . but defense counsel didn't take that opportunity").

The second session fared no better.

Early on, plaintiff's counsel objected to the translation of a document as "sitting under" another document instead of "laying under," and to a translation that tickets were identical, which the interpreter denied the witness had said. "That's a lie. It's a lie," she claimed, leading Sokolova's counsel to respond that was "unprofessional and incompetent." The interpreter and United's counsel soon agreed he was abusive and bullying.

When the sparks continued flying over the interpreter's translation of her next argument with plaintiff's counsel, Sokolova spoke up to make it clear she would not return for a third deposition session. The interpreter again called her lawyer "a liar," and the breaking point was reached.

After more argument over the objections, United's counsel terminated the deposition, called plaintiff's counsel a bully and unprofessional, and filed her motion for sanctions.

Invoking the 1950 Japanese film Rashomon, a legal tale featuring alternate versions of the truth, Judge Cole found fault all around: plaintiff's lawyer "often tended to be vituperative or intemperate", United's lawyer "wasted a portion of her deposition time with irrelevant questioning", and the interpreter lacked court approval "as professionally qualified as opposed to language skilled".

Ultimately, the judge delivered a classic, pox-on-both-your-houses resolution. Warning both parties to avoid "time-wasting, provocative squabbles in the future," no sanctions were entered, and the court sent both sides away unhappy. Hardly a satisfying outcome for either party, but an all too common one when attorneys are unable to resolve their discovery disputes out of court.

For more information on our firm's litigation practice, contact Adam Glazer at adam.glazer@sfnr.com.