International Property Tax Institute

PRESIDENT'S MESSAGE

November 2017

Regular readers of this newsletter will be aware that I was speaking at a conference in Las Vegas at the end of September. Shortly after I left the city, the dreadful shooting took place there which left over 50 people dead and over 500 injured. Whilst in Las Vegas, I had a meal and saw a show at the Mandalay hotel where, at the same time, it transpired that the gunman was storing his formidable arsenal of weapons on the 32nd floor of that hotel. I went from Las Vegas to Chicago for a property tax workshop and, from there, on to New York City for another meeting. Everywhere I went in America, people were, understandably, shocked by the tragedy that had happened in Las Vegas. Whilst I was at the conference in Las Vegas, I spent time with colleagues from the local assessor's office - Clark County - and many of them knew people who were affected by the shooting. Without wishing in any way to comment on the controversial issue of gun control in the USA, I do hope that the scale of this tragedy makes everyone at least reconsider the position and try to ensure that such a mass shooting does not happen again.

At around the same time as people were killed in the Las Vegas shootings, many more people had been affected by earthquakes in Mexico, hurricanes in the Caribbean and the USA, forest fires in California and, more recently, in Portugal and Spain. Many people sadly lost their lives in these natural disasters; many more people lost their homes. Natural disasters of this type, of course, have an impact on property tax in a variety of ways. In some jurisdictions, reductions in property taxes are given as a way of "compensating" taxpayers for their loss. Somewhat unusually, in parts of the USA, because property tax values are taken at a fixed date, usually 1st January of the year in question, they remain fixed even if the property has been completely destroyed later in the year! Not surprisingly, taxpayers are unhappy about that and changes in legislation often have to be rushed through to deal with the problem.

Around the world, in the most serious of cases where major infrastructure - power supplies, roads, bridges, airports, docks and harbours, etc. - is destroyed by such natural disasters, property values may be adversely affected for an extensive period. Apart from the serious impact of the natural disaster on the population affected, local governments who rely heavily on property taxes to fund the services they provide, including the emergency services, face the prospect of a reduction in property tax revenue at a time when their expenditure needs are significantly increased. Insurance does not always cover the entire cost of reconstruction, and other sources of funding may have to be found to support the substantial costs involved, particularly in relation to infrastructure. The only positive that may come from these situations is that, over time, what is replaced will be not only more modern, but also better quality, than the previous infrastructure and buildings and, hopefully, property values - and property tax revenues - will recover.

Another topical property tax issue that is happening in the USA at present concerns Amazon, the huge global corporation, which is looking for a suitable location to create what it is calling HQ2 or its second headquarters complex. It is reported that Amazon are going to invest some $5 billion on HQ2 which will bring around 50,000 well-paid jobs to the new locality. There are lots of stories in the media about how various municipalities are trying to attract Amazon to their particular city with the offer of various incentives, including lengthy periods of exemption from property taxes. Commentators are broadly divided between those who are very supportive of their municipality seeking to attract such an important, large-scale development and others who take the view that this is an unseemly "race to the bottom" between municipalities offering to "give away" huge amounts of potential revenue to secure HQ2 in their locality. It certainly raises the issue of the extent to which property tax should, or should not, be used in this way. Purists may argue that there is little evidence to demonstrate that such incentives produce the benefits that were promised by the corporation concerned. However, the practical political realities are likely to disregard such views and press ahead with trying to attract such a large investment. It will be interesting to see where Amazon eventually decide to build HQ2 and the nature of the "deal" that they are able to negotiate with the municipality concerned.

Moving on to IPTI activities. We spent quite a bit of time in October putting the final touches to a report we prepared for a corporate client which commissioned us to undertake a global research project on property tax systems in a number of countries around the world. Some of the jurisdictions included in the survey were ones we were familiar with, but others involved countries that we did not know as well and involved a lot of careful research and contacts with people on the ground in those locations who were able to help us understand the way in which the property tax system operated. As always, we are very grateful to all those who assisted us in completing this project and we have again improved our knowledge and understanding of the many different property tax systems that exist around the world.

We will be using IPTI's international network again in the coming months as we launch the latest Property Tax Scorecard. This is an exercise we undertake in partnership with the Council on State Taxation (COST) and seeks to identify best practice in the operation of property tax systems around the world. COST carries out research in the USA and IPTI carries out research in other countries. We then work together to bring a common view to the outcome of our research and moderate the results so we can compare the many different systems in a fair and consistent manner. This is quite a lengthy exercise involving a lot of detailed work, so I anticipate it may be early in 2018 before our joint report is published.

Looking back over October, I attended a very interesting meeting in New York City organised by the European American Chamber of Commerce (EACC). IPTI works with the EACC in a number of ways, including this annual real estate meeting which, in this case, was titled "Smart Cities & Smart Buildings: The Future of Commercial Real Estate in the United States and Across Europe". We had some very interesting speakers talking about the latest trends in real estate development, market analysis, renewable energy, the use of green technology, etc. I spoke about the interaction of these trends with property tax and, in particular, how property taxes can be used to encourage desired forms of real estate development. We had a large and lively audience who got involved in a very interesting question and answer session. We also had some further discussion with people after the meeting had formally concluded which shows the extent of interest in this topic.

Also in October we held a workshop in partnership with the Institute of Municipal Assessors (IMA) in Canada on the subject of the "Role of Expert Witness and Advocate in Assessment Valuation Disputes" which focussed on the potential conflict where one person takes on both roles. As readers will be aware, the duties and responsibilities of an expert witness are very different to those of an advocate and it is therefore "challenging" for one person to take on both roles. However, this happens in many cases both on the part of the assessing jurisdiction where the assessor takes on both roles and in the private sector where the taxpayer's representative may take on both roles. The workshop provided a useful opportunity for the audience to be reminded about the need to understand the differences between these roles and to be clear in which capacity a person may be were acting in any particular case.

Another interesting event we held in October was an IMA-IPTI webinar on the "Derivation of Fair Market Rents for the Valuation of Multi-Residential Properties, Office Buildings and Shopping Centres". I chaired this webinar and we had an expert from the Municipal Property Assessment Corporation (MPAC) - which is responsible for the valuation of some 5 million properties in Ontario - talking about the topic. He emphasised the importance of obtaining, and correctly analysing, the relevant data and dealt with many of the practical problems associated with the valuation of these properties using the income approach.

I also chaired an event in London (UK) during October called "Rating Question Time". This is where a panel of experts from the Valuation Office Agency (VOA), the organisation responsible for property tax valuations in England & Wales, the Valuation Tribunal, and the relevant professional bodies (the RICS, IRRV and RSA), come together to answer questions from the audience. This is always a popular and lively event, and this year was no exception as there are many issues concerning practitioners. However, I am pleased to say that the questions were handled in a very professional manner and everyone behaved themselves!

I am currently in Madrid where I have been speaking at an International Research Symposium organised by the International Association of Association Officers (IAAO) on 30th and 31st October. This was a very interesting and informative event with speakers from around the world sharing their knowledge and experience in respect of a variety of valuation and property tax topics. I was speaking about the valuation of specialised properties and used some of the very well-known properties in Madrid, including the Royal Palace, the Opera House and the Prado Museum, as the basis for my presentation.

I am due to fly from Madrid to Trinidad on 1st November where, on 2nd and 3rd November, we are holding the 6th Annual RICS-IPTI Caribbean Valuation and Construction Conference. This event, organised in cooperation with the Institute of Surveyors of Trinidad & Tobago (ISTT), is being held in Port-of-Spain and promises to be very topical as Trinidad & Tobago are in the process of reintroducing property tax. I am looking forward to not only the lively discussions I know we will be having, but also to see so many friends and colleagues from around the Caribbean and elsewhere.

On 8th November, we are holding a joint IMA-IPTI one-day workshop on "Written Advocacy - Preparation of Briefs and Reports following the ARB's New Rules of Practice and Procedure". As indicated in the title, the Assessment Review Board (ARB) in Ontario has issued new rules and it is important that property taxpayers and their professional advisors understand the rules and follow them carefully.

On 15th November, there will be another IMA-IPTI webinar, this time on the "Valuation of Land: Theory and Application". The valuation of land for assessment purposes is always a challenging and difficult process. The issue of highest and best use of the land - as if vacant and as if improved - will be discussed. Focus will be given to the methodology of the derivation of value for the land as vacant, with the primary application of the market comparison approach. Our two experienced presenters will provide practical examples of the valuation of typical parcels of land.

On 16th November, another RICS-IPTI webinar, this time on "Giving Expert Evidence in Valuation Disputes" This web class will cover what appraisers and assessors need to know about giving evidence in litigation concerning valuation disputes. The web class will cover the "ins and outs" of preparing for litigation, including how the expert witness and the advocate should work together as a team; the rules governing the use of experts; the preparation of the expert's report; what facts to include and how they can be proved; and, critically, how to link the facts to the opinion of value. It will also cover discussions between the expert witness and the legal team; dealing with the strengths and weaknesses in both side's valuations; how to present expert evidence; how to deal with cross-examination; and other matters to take into account in connection with litigation.

On 13th December, we will be delivering another RICS-IPTI webinar, this one on the subject of "Preparing Expert Reports for Valuation Disputes". This web class is concerned with how to prepare an expert report for use in valuation disputes. It will focus on what needs to go into such a report and how the report should be structured. It is important to understand the obligations of an expert called upon to prepare a report for use in valuation disputes. It is also important to understand how an expert report should be constructed, what facts need to be included, how those facts should be analyzed, and how to present the conclusions drawn from the analysis of the factual information collected. I will be one of the presenters for this webinar and my co-presenter is a very experienced lawyer, so it should be a good session.

Looking a little further ahead, on 1st February 2018, we will be holding a joint IMA-IPTI workshop on the "Identification of Physical, Functional and External Depreciation". This workshop is being held in Toronto, Ontario and will involve a number of experts giving their views about the practicalities of dealing with these difficult topics.

And finally, for this brief look ahead, a reminder about our 2018 Mass Appraisal Valuation Symposium (MAVS) which will be held in Halifax, Nova Scotia, Canada on 5th and 6th June 2018 in cooperation with the Property Valuation Services Corporation (PVSC) of Nova Scotia. I hope you will be able to join us.

As usual, therefore, we have lots of events to look forward to over the coming months. More information about all our forthcoming events, along with registration and other details, can be found on our website: www.ipti.org.

Now, it's time for a quick look at what is making headlines concerning property taxes around the world.

In the USA, the Michigan Supreme Court recently rejected an appeal from a retail "big box" operator in respect of what has become known as the "dark stores" issue. In broad terms, the argument revolves around the whether the stores should be valued "in use" or in line with the market value of empty, i.e.

"dark", stores. The assessor had valued the property at $8 million, but the Michigan Tax Tribunal had accepted the retailer's lower assessment of $3.3 million. The Court of Appeals reversed the Tax Tribunal's decision and ruled that there were flaws in the way both groups valued the store's property. Now Michigan's highest court has upheld the decision of the Court of Appeals. The Tax Tribunal will now have to re-evaluate the store's property worth in accordance with the decisions of the superior courts. It will be interesting to see the outcome of this case which could have significant implications for many similar appeals throughout the USA.

In the UK, the Chancellor of the Exchequer is under pressure to reduce the burden of business rates (the property tax paid in respect of non-residential properties) in his Budget on 22nd November. There are a number of issues he is being asked to address, including the long-overdue "reform" of the system, but the most immediate pressure results from the recent announcement about the official rate of inflation (RPI). This rate, stated to be 3.9%, is used as the index for the increase in the tax rate (multiplier) used to calculate business rates next year. However, it is estimated that around 250,000 companies will face a business rates rise beyond 3.9% in 2018 due to the combined effect of the RPI adjustment and "transition" from the recent revaluation that came into effect on 1st April 2017. The Chancellor is being asked to "freeze" business rates at their existing level to help firms that are struggling with both the existing high burden of property taxes and uncertainty surrounding the outcome of the Brexit negotiations.

In Canada, the Court of Appeal in British Columbia overturned a decision of the BC Supreme Court and set out how contaminated property should be assessed for tax purposes. The case involved a contaminated commercial property with potential for economic redevelopment. The property in question had been operated as a retail gas station, automobile dealership, and repair shop. The soil on the property was contaminated, and the contamination had spread to neighbouring properties. The assessor had valued the land and improvements at $975,000. The property owner appealed and the Property Assessment Review Panel reduced that assessment to $500,000. The owner appealed to the Property Assessment Appeal Board claiming the property had no value. The Board reinstated the original assessment. The owner appealed again, to the Supreme Court of British Columbia. That court found that the Board had erred in law, and remitted the matter to the Board for reconsideration. The assessor appealed that decision. The Court of Appeal allowed the assessor's appeal and restored the Board's decision. The Court applied the "highest and best use" principle of assessment, and found that a multi-tenant retail building was the "best use" for the purposes of assessment. The Court held: "that property has value to its current owner can be a sufficient basis on which to determine its value." The BCCA had held that even where there was no other potential purchaser, "one must regard the owner as one of the possible purchasers." The Court in this case agreed, and held that "when, for whatever reason, there is no market for a property that has value to its owner, that owner can serve as a proxy for a competitive market."

In Egypt, real estate tax revenue jumped by 455% following the implementation of the new real estate tax law, recording EGP 2bn revenue in the last fiscal year compared to EGP 360m before applying the law, according to the head of the Real Estate Taxes Authority. She added that the authority plans to make the tax proceeds about five times larger by 2023. She also said the authority has not yet signed the protocol of evaluating tourist establishments due to the recent bad conditions experienced by the tourism sector, adding that it will be signed when the sector recovers.

In Thailand, cutting the exemption ceiling for first homes to 20 million baht from 50 million will nearly triple the number of residences subject to the land and buildings tax to 30,000, said the Deputy Finance Minister. According to the Finance Ministry's data, 11,000 homes would be subject to the new property tax payment if the exemption threshold was 50 million baht. A draft bill on the land and buildings tax is being vetted by the National Legislative Assembly (NLA) after being approved by the cabinet in March, with the waiver at the centre of the debate. Some NLA members argue the waiver ceiling is too high and should be lowered to widen the number of taxpayers, adding the bill in its current form is also unfair as those who own more than one residence are subject to the tax even if their homes' combined value is less than the 50-million baht threshold for the first property. The NLA is set to wrap up the bill in November, after which it will come into force in January 2019. The new tax, which will replace the outdated house and land tax and the local development tax, aims to narrow income disparity, expand the national taxpayer base, increase tax revenue for local administrations and improve land use. The draft bill calls for the tax to be levied on first-home owners and farmland appraised at more than 50 million baht. A tax rate of 0.05% will be applied to first homes and agricultural land worth between 50 million and 100 million baht, and a 0.1% rate for homes above 100 million. People owning second homes will be taxed in a range of 0.03-0.1% of the appraisal price. The tax on vacant land will rise by 0.5 percentage points every three years, up to a cap of 5%, while land for commercial and industrial use will be levied at 0.3-1.5%. The land and buildings tax is forecast to generate 64.2 billion baht for local administrative organisations, up from the 25.9 billion recently contributed by the house and land tax and local development taxes.

In Australia, the Victoria government is pushing ahead with a controversial change to property valuations, which its critics have labelled a $200 million “tax grab”. From 2019, the government is planning a move to annual property valuations instead of every two years, which the Budget shows will boost the state government coffers by an extra $200 million that year. It is also hoping to “buy off” opposition from local councils - who now perform the valuations - by agreeing to pay the extra costs associated with yearly valuations. It will also reimburse council’s lost revenue from selling on property data. The State Treasurer has said the change would just mean more gradual rises in land tax. But the Opposition and council valuers say the rejig will lead to a huge government tax windfall. The government will re-introduce the measure, along with a plan to centralise all valuations with the Valuer-General, in the Spring Taxation Bill likely to be introduced to parliament shortly. The Municipal Group of Valuers said there was no doubt that, in a rising property market, the government would net more from land tax. It also says valuable local knowledge and expertise would be lost if valuations were centralised. The Property Council of Australia said the best way to smooth out land tax fluctuations was to move to three-year rolling averages.

And finally, an innovative idea from the UK where Westminster City Council announced a proposal to introduce a “voluntary supplement” to the council tax paid by its wealthiest residents. It will be interesting to see if this idea floats or sinks like a stone!

Paul Sanderson

President

International Property Tax Institute