<u>Understanding "Fair Market Value" and Ad Valorem Taxes</u>

By James L. Roberts, IV

Other than cringing when property tax bills arrive in the fall of every year, *and remembering the old saying about the only two certainties in life*, many property owners could use a little help in understanding how the property tax system works, or what to do before bills arrive to ensure that taxes are justly levied. Unless special exceptions apply, we are all aware of an obligation and duty to pay property taxes, however, no one wants to pay more than his or her fair share of tax burden.

As a starting point, ad valorem *(meaning according to value)* property taxes are generally based on two components, i.e., fair market value and a millage rate. Fair market value is calculated by the Tax Assessor's Office, and unless a special program applies, property taxes are levied at 40% of "fair market value", which reduced rate is called "assessed value". Millage rates are built primarily from the budgetary needs of the County Commission, School Board and State of Georgia. Tax bills are produced by the Tax Commissioner using the "assessed values" of each property times the appropriate millage rate less adjustments for exemptions and special programs; billed amounts at this stage are called "taxable values". It is important to note that Tax Commissioner discretion is extremely limited. So if you're unhappy with your tax bill, directing these feelings toward the Tax Commissioner is, in essence, shooting the messenger and won't do anything to decrease your property tax liability.

That said, a property owner's best chance to reduce their property taxes is by examining the value set by the Tax Assessor's Office and making sure that it is based on the correct factual information and otherwise conforms to Georgia law. Significant for 2011 is a change in Georgia law, requiring all property owners to be sent a Notice of Current Assessment from the Tax Assessor's Office, setting forth both the "fair market value" and "assessed value", for tax purposes on which the 2011 ad valorem tax bill will be based, including an estimate of anticipated property taxes. These Notices should be sent in late spring or early summer depending on the County in which the property is located. For Glynn County, it is expected that Notices will be sent in May.

Any property owner who believes that the value set forth in the Notice does not reflect the property's "fair market value" may challenge the value by filing a written appeal of the valuation within 45 days from the date of the Notice.

Afterward, a few simple things can be done to evaluate whether the value in the Notice represents "fair market value" for ad valorem tax purposes.

Begin by requesting a copy of your 2011 property record card from the Tax Assessor's Office. The property record card should contain the factual information about your property used to calculate its value. Errors in building square footage, age, quality and condition of improvements, as well as in land size or dimensions, can cause property values to be incorrect. Tax appraisals are most frequently based on sales of comparable property or another market based approach. Information can be obtained from the Tax Assessor's Office concerning the specific data, sales and appraisals of properties used to value your property. This information can be used to make sure, (1), that the sales used by the Assessor are truly comparable, (2), that elements and units of comparison from the sales are being applied properly in valuing your property, (3), that sales of comparable properties that should have been used in valuing your property have not been excluded, and, (4), that your property is valued uniformly with other like property.

Succinctly, it is important to understand the information used to value your property as well as the tax appraisals of similar properties for two reasons. First of all, the Assessor's Office is required to value your property based on the statutory definition of "fair market value" and there is specific criteria as to what has to be considered and utilized according to Georgia Code and Rules and Regulations from the Department of Revenue. Secondly, both the Georgia Constitution and Georgia Code require property in each County to be valued uniformly and values equalized so that each owner pays only his or her fair share of tax. The use of dated sales, the exclusion of sales which should have been considered, or the comparison to sales of unlike property can cause the tax appraisal of your property to be inflated. It is emphasized, that even if the sales used to value your property are correct, if similar properties are valued at lower values for tax purposes an adjustment to the tax appraisal of your property may be warranted based on lack of uniformity.

Again, the Official Code of Georgia sets forth the definition of "fair market value" for property tax appraisals as well as specific criteria that must be applied in their development. Unique, however, is that property tax appraisals are to be based on a property's "existing use" (actual use) rather than its "highest and best" (most profitable) use, and this aspect of the law can be especially useful when "existing use" valuations are lower. For many properties, such as most single family homes, "existing use" and "highest and best use" values are the same. However, for many other types of properties, such as raw land for example, "existing use" and the "highest and best use" tax appraisals can be substantially different. For instance, a piece of raw agriculturally used land, which may be ripe for development, but on which no steps to develop have occurred, should be valued for tax purposes based on sales of other raw agriculturally purposed land as opposed to higher sales of property purchased for development. In sum, a tax appraisal on your property, based on properties purchased for different uses, is likely subject to an adjustment.

Another recent benefit to taxpayers is a requirement that bank or foreclosure sales must be used and applied in determining appraisals presumably to keep property taxes in check. Finally, the 2010 purchase price of any bonafide sale (which includes foreclosure, bank sale or short sale) sets the upper limit of value for tax appraisal purposes of such property for 2011.

In sum, by verifying the accuracy of your property's factual information, determining that the right data has been used in its appraisal, and that your property is valued uniformity with similar property, you can ensure that the value of your property is at "fair market value" for tax purposes and that you are not paying more than your fair share of tax burden. Beyond that, appraisals set by Board of Equalization or Superior Court proceedings are usually fixed for the year of appeal and two years forward.

These are but a few examples of information for consideration prior to approaching the Tax Assessor's Office on an appraisal inquiry. Numerous and remarkable changes to definitions, law and rules associated with tax appraisals and tax appeals have occurred over the past few years. Information on many of these changes can be obtained from the Tax Assessor's Office.

<u>About the Author</u>:

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