

REAL ESTATE & LAND USE

NEWSLETTER OF THE REAL ESTATE AND LAND USE PRACTICE OF MANATT, PHELPS & PHILLIPS, LLP

Alert: Property Tax Assessment

Clayton Gantz & Jeff Nguyen

With declining commercial property values a reality, property owners are looking for ways to cut expenses. One available avenue is to seek a reduction of their property tax assessment. If successful, the property owner will enjoy a temporary abatement of property taxes.

Under California law, property owners can apply for a reduction in their assessment to the Assessor in the county in which their real estate is located. The process is initiated by filing a simple request to have the property's assessed value reduced to its current market value. The proposed market value must be supported by evidence, which can take the form of sales of comparable properties or a real property appraisal. The Assessor may (1) concur with the owner on the market value, (2) agree that a reduction is appropriate but at a different value than that proposed by the property owner, or (3) may reject the request altogether. Under Scenario (1), the assessed value is lowered to the owner's proposed market value and the tax bill is reduced accordingly. Under Scenario (2), negotiation may still result in a reduction that is acceptable to both the owner and the Assessor, resulting in a lower tax bill. Finally, under Scenario (3) or where negotiation under Scenario (2) is unsuccessful, the owner can appeal the matter to the county assessment appeals board.

It is important to note that any tax reduction is not permanent. If the assessed value is reduced based on the property's current market value and the market value subsequently increases, the assessed value will be restored as if the reduction never occurred (i.e., the assessed value would equal the prereduction assessed value increased by the Proposition 13 factor for all intervening years). However, the owner is not required to return to the Assessor any of the tax savings realized up to that point.

NEWSLETTER EDITORS

Roger Grable

Partner

rgrable@manatt.com

714.371.2550

Robin Kennedy

Partner

rkennedy@manatt.com

650.812.1360

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Either lawyers or non-legal service providers can make application for a property tax assessment reduction on behalf of a property owner. While non-legal service providers may quote a lower initial cost to file the application, you should be aware that members of Manatt's large team of real estate practitioners have expertise in making requests for reduction that provide the best possible administrative record in the event an appeal is necessary and in pursuing such requests through negotiation with and determination by the assessor. Often, the condition of the administrative record makes the difference between a successful application or appeal, and an unsuccessful one. As such, our services in this area present a value-added benefit to our clients.

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FOR ADDITIONAL INFORMATION ON THIS ISSUE, CONTACT:



Clayton Gantz Mr. Gantz's diversified practice emphasizes financial and real estate transactions, including corporate and commercial lending, asset-based finance, mortgage finance, joint venture finance, affordable housing development and financing (including tax-exempt bond transactions and transactions involving the low-income housing tax credit), mezzanine and other highly leveraged financings, public finance, loan restructurings and capital markets transactions (including commercial mortgage loan securitizations and mortgage loan portfolio purchases and sales), real estate development, community redevelopment and public-private partnerships. He has formed and served as general counsel to commercial mortgage loan conduits and private equity funds. He has also acted as counsel to the San Francisco Redevelopment Agency. Mr. Gantz is currently representing the City of Tustin in connection with the conversion of the Marine Corps Air Station Tustin from military to civilian use.



Jeff Nguyen Mr. Nguyen specializes in real property taxation and the representation of tax exempt organizations. He advises a broad range of organizations on all aspects of their operations, including choice of entity and formation, IRS and state income tax exemptions, state and local property and sales and use tax exemptions, governance, fundraising, contracts, risk management, mergers, divisions, and dissolution. Mr. Nguyen has also represented tax-exempt organizations successfully in resolving complex disputes with the IRS and state authorities relating to tax-exempt status, in obtaining IRS private letter

rulings on novel issues, and in the acquisitions of charitable subsidiaries and assets in both the domestic and international arenas. He is qualified to advise charitable directors and trustees on such fiduciary and tax issues arising under federal and state laws as intermediate sanctions, self-dealings, and other conflicts of interest.

REAL ESTATE & LAND USE GROUP CHAIRS

Susan K. Hori
714.371.2528

Keith M. Allen-Niesen
310.312.4105

REAL ESTATE & LAND USE MEMBERS

<u>Valentin G. Aguilar II</u> 310.312.4313	<u>Keith M. Allen-Niesen</u> 310.312.4105	<u>Elizabeth C. Alonso</u> 310.312.4188
<u>Tina Ang</u> 202.585.6567	<u>Michael M. Berger</u> 310.312.4185	<u>Ellen Berkowitz</u> 310.312.4181
<u>Katerina H. Bohannon</u> 650.812.1364	<u>William Brunsten</u> 310.312.4109	<u>Edward G. Burg</u> 310.312.4189
<u>Adria I. Cheng</u> 415.291.7438	<u>Victor De la Cruz</u> 310.312.4305	<u>June DeHart</u> 202.585.6510
<u>Matthew A. Dombroski</u> 212.790.4556	<u>James F. Eastman</u> 415.291.7436	<u>Steve Edwards</u> 714.371.2546
<u>Robert M. Eller*</u> 310.312.4338	<u>John T. Fogarty</u> 310.312.4165	<u>Paul A. Gangsei</u> 212.830.7213
<u>Clayton B. Gantz</u> 415.291.7600	<u>Virginia Gomez</u> 310.231.5413	<u>Roger A. Grable</u> 714.371.2537
<u>Bea Grossman</u> 212.790-4625	<u>Timi A. Hallem</u> 310.312.4217	<u>Ted W. Harrison</u> 415.291.7441
<u>Susan K. Hori</u> 714.371.2528	<u>Anita Yang Hsu</u> 310.312.4204	<u>Mark D. Johnson</u> 714.371.2515
<u>Robin Kennedy</u> 650.812.1360	<u>George David Kieffer</u> 310.312.4146	<u>Terry N. Kim</u> 212.790.4514
<u>Lisa Boswell Kolieb</u> 310.312.4297	<u>Kisu Lam</u> 310.312.4164	<u>Diana J. Lee</u> 212.830.7246
<u>Bryan C. LeRoy</u> 310.312.4000	<u>Alvin T. Levitt</u> 415.291.7422	<u>Renee B. Lindsey</u> 310.231.5557
<u>Sean Matsler</u> 714.371.2534	<u>Brady R. McShane</u> 310.312.4386	<u>Marvin O. Morris</u> 202.585.6550
<u>Tom Muller</u> 310.312.4171	<u>Todd Nelson</u> 310.231.5449	<u>Dana P. Palmer</u> 310.312.4137
<u>Tim Paone</u> 714.371.2519	<u>Marv Pearlstein</u> 415.291.7439	<u>Michael Polentz</u> 650.251.1440
<u>John L. Ray</u> 202.585.6565	<u>Harvey L. Rochman</u> 310.312.4104	<u>Paul Rohrer</u> 310.312.4264
<u>Adam R. Salis</u> 714.371.2529	<u>Gina Samore Smith</u> 714.371.2511	<u>Masood Sohaili</u> 310.312.4144
<u>George M. Soneff</u> 310.312.4186	<u>Lisa Specht*</u> 310.312.4298	<u>Lauren Spiegel</u> 714.371.2533
<u>Martin E. Steere</u> 310.312.4110	<u>Camas J. Steinmetz</u> 650.251.1455	<u>Joshua C. Taylor</u> 415.291.7446
<u>Dina Tecimer</u> 310.312.4293	<u>Justin X. Thompson</u> 310.312.4271	<u>Ray F. Triana</u> 415.291.7442
<u>Ronald B. Turovsky</u> 310.312.4249	<u>Lisa M. Weinberger</u> 310.312.4248	<u>Ted Wolff</u> 212.790.4575
<u>Jack S. Yeh</u> 310.312.4367	<u>Grace S. Yang</u> 415.291.7448	<u>Michael J. Zerman</u> 310.312.4310

*Past Co-Chair