Tax Law Leads to Towering Savings for Big Building Owners

The owners of Williams Square in Irving's Las Colinas purchased the office complex in 2012 for $226 million, then persuaded a judge to reduce the taxable value to $147 million. As a result, the company could save more than $3.5 million in taxes annually.

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After a big real estate deal in Dallas County, the legal maneuvering has almost become routine: A company that just spent millions of dollars on a commercial property then argues, for tax reasons, that it grossly overpaid.

That's what happened with Williams Square in Las Colinas. An Atlanta investment firm bought the office complex in 2012 for $226 million. Then its lawyers went to work. After more than a year of legal

wrangling, they persuaded a judge to reduce the taxable value of Williams Square to $147 million. That could save the company more than $3.5 million in taxes annually.

Such a result may be startling to homeowners who see their appraised values rise year after year. But it's nothing new to the owners of some of the area's largest buildings. They've been successfully challenging their appraisals for years, aided by a provision of state law that was written by a prominent property tax attorney.

In 2013, commercial property owners in Dallas County shaved more than $4.8 billion off preliminary tax appraisals, according to data analyzed by The Dallas Morning News. That's more than seven times the reduction secured by residential property owners.

Commercial property owners and their consultants say they're simply working to make the property tax system fair. But many appraisal districts and local governments believe the opposite is happening. They say the wealthiest property owners are receiving major breaks, while the tax burden for homeowners climbs.

"When Williams Square walks away with a lower value, everybody else is picking up the tab," said W. Kenneth Nolan, chief appraiser for the Dallas Central Appraisal District.

The numbers suggest that Nolan is right. In 1999, residential properties made up 37 percent of the taxable value in Dallas County. Last year, that number had grown to 46 percent. Meanwhile, the share for commercial properties dropped from 41 percent to 38 percent.

'Equal and uniform'

This year's appraisal notices were mailed Friday, meaning Monday will be the first day the Dallas Central Appraisal District hears from people seeking to reduce their taxable values.

The Texas Constitution provides two ways for property owners to make their case. Homeowners usually cite market value, claiming they couldn't sell their houses for the amount the appraisal district claims they are worth.

Commercial property owners usually prefer another tactic, Nolan said. They argue that they aren't being taxed "equally and uniformly." That essentially means a property owner thinks his peers — the owners of other multimillion-dollar buildings — got valuations much lower than his. If so, that's a violation of the owner's rights under the state constitution.

Property owners have Austin tax attorney Jim Popp to thank for the strategy. In 1997, he provided a Texas lawmaker with the language for an amendment to the tax code that made it much easier to challenge appraisals on the "equal and uniform" basis.

In an interview, Popp said the amendment made the appraisal process more equitable.

He described a frequent complaint of shopping center owners before the code was changed: Because shopping centers sell much less frequently than homes, it's difficult to accurately appraise them. If one happened to sell while the market was hot, its taxable value often spiked, he said. Meanwhile, the appraisals for nearly identical centers stayed relatively steady. And that, Popp said, was unfair to the recent buyer.

But before 1997, it was almost impossible to press an "equal and uniform" claim, he said. The property owner would have to hire a mathematician to produce a statistically valid sample of similar shopping centers. Next, he'd need licensed appraisers to go out and assess those properties.

Popp said that in his first 14 years as a tax lawyer, he never won such challenge. So he proposed adding language to the tax code to create an easier method. As a former counsel of the Texas House Ways and Means Committee, he had no trouble finding a friendly legislator to sponsor his measure.

Rep. Paul Hilbert, a Republican from Spring, took on the task. Hilbert, who died in 2001, attached Popp's amendment to a bill aimed at making the appraisal process more transparent.

Essentially, the change allowed a property owner to create a list of comparable buildings with different taxable values. If the owner's taxable value was on the high end, it would be lowered to the median.

The law took effect on the first day of 1998. Challenges to appraisals skyrocketed. And for commercial property owners, the tax savings came pouring in.

"Some would say this is better for my clients," Popp observed of his legislative creation.

But taxing people is serious business, he added, and governments have a responsibility to do it right.

"There's a lot of money that taxpayers are paying to support local government, and they need to be treated equally," he said.

'Death spiral'

Resistance to the tax gambit seems to be growing. In San Antonio this April, protesters marched outside a Hilton hotel that was purchased for $32.5 million in 2011, but appraised for $14.7 million the next year. In Harris County, commissioners threatened to sue the local appraisal district after a shopping center sold for nearly $200 million more than its appraised value, according to the Houston Chronicle.

Dallas County leaders have been less vocal, but say they also support a change.

"Residential pays more because commercial pays less," said Dallas County Commissioner Elba Garcia. "I don't think it's fair."

Nolan of the central appraisal district said the case of Williams Square illustrates that little can be done at the local level without a change in state law. The four granite towers are considered the most valuable

office space in Las Colinas, he said. But a court ruled that Williams Square should be appraised in the middle.

Its ownership, the Brookdale Group of Atlanta, declined to comment because the case is still under appeal.

Court documents show how the investment firm prevailed in district court. The Brookdale Group didn't dispute Williams Square's status as premier office space. Rather, it argued that the difference between its property's assessment and those of neighbors was too extreme.

The company first filed a protest with the central appraisal district, even though the office complex was assessed at 7 percent less than the purchase price. When that protest failed, the Atlanta group filed suit.

It produced a list of nine nearby properties appraised for less than Williams Square. The judge lowered the property's appraisal to the middle, about a 30 percent reduction. He also ordered the appraisal district to pay the company $100,000 in legal fees.

That was frustrating, Nolan said. But the true problem, he said, is the effect the case will have on other taxable values in the area.

Now, Williams Square's taxable value is lower than those of several of the towers listed in the Brookdale Group's pleadings. So the owners of those buildings will almost certainly try to get their appraisals lowered — under the same "equal and uniform" clause invoked by Williams Square.

"It's this death spiral, because the medians keep going down and down," Nolan said.

Big property owners and their consultants say the spiral will end once taxable values are truly "equal and uniform." Paul Pennington, president of the Texas Association of Property Tax Professionals, framed the debate as "property owners versus the tax man." Local governments are simply searching for more revenue, he suggested.

"From their perspective, the more taxes they collect, the better," he said.

The county's appraisers argue that the law is preventing them from making accurate assessments. In the past 10 years, more than 11,000 lawsuits like the one involving Williams Square have been filed against the Dallas Central Appraisal District. Those suits have erased about $19.8 billion from the local tax rolls.

The appraisers say they don't have the resources to fight each case. And the threat of having to pay the other side's legal fees makes them reluctant to go to court. The Dallas Central Appraisal District settles more than 95 percent of the time, officials estimated.

"There's not a lot of times I can go to court and risk losing 100 grand," Nolan said. "I will be out of business."

Here are a few large commercial properties that were sold in recent years, then wound up with tax appraisals well below the sale prices:

AT A GLANCE: Big beneficiaries

The Towers at Williams Square

5215 N. O'Connor Blvd., Irving

Sold in 2012 for $226 million; 2012 appraisal lowered by a judge to $147 million

Chase Tower

2200 Ross Ave., Dallas

Sold in 2007 for $290 million; appraised in 2008 for $196 million

The Fairmont Dallas Hotel

1717 N. Akard St., Dallas

Sold in 2011 for $69 million; appraised in 2012 for $47.5 million

6565 MacArthur at Sierra

6565 N. MacArthur Blvd., Irving

Sold in 2013 for $46.6 million; appraised in 2013 for $28.9 million

Wheatland Town Center

2525 W. Wheatland Road, Dallas

Sold in 2012 for $27.4 million; appraised in 2013 for $16.7 million

Hilton Dallas/Park Cities

5954 Luther Lane, Dallas

Sold in 2011 for $42 million; appraised in 2012 for $20.4 million

SOURCES: Dallas Central Appraisal District; U.S. Securities and Exchange Commission filings; Real Values for Texas