Texas BOMA Legislative Update  
by Robert D. Miller, Yuniedth Midence Steen, Nef Partida, and Gardner Pate  
August 26, 2015

The summer is ending, and the campaign season has begun. Over the past several weeks, we have seen several legislators announce retirements and several more announce their reelection bids. Those campaigns will begin in earnest over the next few weeks. In addition, we learned of big news on the property tax front.

Property Tax Lawsuit

The City of Austin recently filed a lawsuit challenging the appraisal of commercial real property and vacant land. The lawsuit requests the district court to declare the current property tax system unconstitutional, strike down the statutory provisions allowing taxpayers to use comparable properties in an equal and uniform protest or appeal, and order the Travis County Appraisal District to reappraise all commercial real properties and vacant lots. In addition, they request the court to declare that mandatory sales price disclosure is necessary to enable appraisal districts to comply with statutory and constitutional requirements. Finally, the lawsuit asks the court to apply its ruling statewide—not just to Travis County.

What the Lawsuit Means

The lawsuit is in its infancy and faces many hurdles, both practical and legal. The sheer size of the number of defendants named in the lawsuit will make the action difficult to pursue. The City of Austin lists more than 10,000 owners of commercial real property as defendants—it will literally take weeks, if not longer, to serve the lawsuit on all of those owners. Further, the lawsuit is a novel legal maneuver: since the creation of central appraisal districts, no taxing unit has ever attempted to launch mass litigation against its own taxpayers. Several practical aspects also remain unclear, such as whether the City of Austin can even adopt a tax rate for the year, or what the implications of the lawsuit are on the school finance lawsuit currently pending before the Texas Supreme Court. Finally, this lawsuit comes on the heels of a legislative session where the Legislature decided against mandatory sales price disclosure, decided against prohibiting commercial property owners from using the equal and uniform method, and passed legislation to make the equal and uniform method more professional. This history means the City of Austin will be asking the courts to directly contradict actions taken by the Legislature.

The bigger point of the lawsuit, however, is that opposition continues to exist to allowing commercial property owners using the equal and uniform method of appraisal appeals. As this lawsuit progresses, it is likely we will continue to see media focused on this issue.
We will continue to monitor this situation as it progresses, including making recommendations in terms of political outreach, media outreach, and potential involvement in the legal process.

2015 Legislation Background

In the lead-up to the 2015 session, news outlets across the state were running numerous articles and opinion pieces related to the property valuation for tax purposes of commercial real property, with particular attention on the use of the equal and uniform process for appraisal appeals. As a result of this negative publicity, Texas BOMA and other interested parties worked collaboratively on a piece of legislation restricting the use of equal and uniform appraisal to generally accepted appraisal methods and techniques. According to the Texas BOMA property tax professionals, this legislation should not have a detrimental impact on Texas BOMA members, though it will help weed out the bad actors undermining confidence in the process.

Election Season Begins

Every two years, all state representatives and half of the state senators are up for election. This year, the only statewide elections are for one member of the Railroad Commission and several judicial seats, both at the Texas Supreme Court and the Texas Court of Criminal Appeals.

While we do not know for certain which individuals are going to run for office until the filing deadline comes in early December—some claim they are running only to drop out, and vice versa—we do have some announcements to report on current officeholders who are not seeking reelection.

In the Senate, Senator Kevin Eltife (R-Tyler) and Senator Troy Fraser (R-Horseshoe Bay) have announced they are not seeking reelection. Senator Eltife served as Chairman of the Senate Business & Commerce Committee during the 2015 legislative session. Similarly, Senator Fraser served as Chairman of the Senate Natural Resources and Economic Development Committee in 2015, and served Chairman of the Business & Commerce Committee for several sessions before that. Both Senator Eltife and Senator Fraser were well-respected by their colleagues and lobbyists, and they will be missed.

In the House, twelve incumbent state representatives have already announced they will not seek re-election. Those members are Jimmie Don Aycock (R-Killeen) (Chair of House Public Education Committee); Myra Crownover (R-Lake Dallas) (Chair of House Public Health Committee); Joe Farias (D-San Antonio); Allen Fletcher (R-Tomball); Patricia Harless (R-Spring); Bryan Hughes (R-Mineola); Jim Keffer (R-Eastland) (Chair of House Natural Resources Committee); Marisa Marquez (D-El Paso); John Otto (R-Dayton) (Chair of House Appropriations); David Simpson (R-Longview); Scott Turner (R-Frisco); and Sylvester Turner (D-Houston).

As you can see from the list, these announced retirements will open up several high profile committee chairmanships, not the least of which is the Appropriations Committee. We expect to see more retirement announcements in the coming months, and will keep you advised.