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The Evaluator – Major Developments in Property Tax Law Happen California, New Jersey and Indiana

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California High Court Rules that Contractual Rights May Be Included in Determining Tax Assessment of Los Angeles Hotel

Olympic & Georgia Partners, LLC v. County of Los Angeles, California Supreme Court, Case No. S280000 (2025).

Owners of hospitality assets (e.g., hotels, convention centers) should pay heed to the recent California Supreme Court decision involving the Los Angeles Ritz-Carlton. The Court’s decision is a partial rejection of the “Rushmore Method,” which excludes intangible assets when determining the market value of hotels for property tax purposes. Specifically, the Court allowed the Los Angeles County Assessor to include certain intangible assets in the property’s income stream, which in turn resulted in a higher taxable value. Property taxes for this asset class will likely increase in California as this tweak to the Rushmore Method is applied in other counties. There is also a potential wider repercussion if assessors successfully argue that the Court’s reasoning should apply to development incentives. This “modified” Rushmore Method could even reach assessor in other states.

Hotels are primarily valued using a discounted cash flow analysis (DCF) under the income capitalization approach. A DCF estimates the property’s future income stream and then discounts it to present value. Assessors in California (and most other states) must be careful to exclude value derived from intangible assets when determining value for property tax purposes. The “Rushmore Method” is the most widely accepted way for assessors and appraisers to exclude intangible assets from hotel and hospitality property income streams and resulting values.

The Los Angeles County Assessor included sources of income in its DCF that came from the Ritz-Carlton hotel’s intangible assets. The most significant were: (1) a government-based development incentive (the

city assigned its 14 percent occupancy tax to the hotel developer to incentivize the construction project in that location); and (2) a one-time, \$36 million "key money" payment made by the Ritz-Carlton to secure a property-management and branding rights contract from the owner. These assets are intangible and should be excluded from any income stream developed for determining property taxes. Otherwise, the property's taxable value will be higher than its real market value.

The California Supreme Court did not explicitly reject the Rushmore Method in its entirety. However, the Court's decision is a departure from its strict application. It allowed both the developer's incentive and "key money" payment, which are intangible assets, to be included in the income stream for property tax valuation purposes. The Court reasoned these payments constituted income from the property's "beneficial use"; But that reasoning is difficult to follow. By extension, income derived from any intangible asset could be included in a property's income stream in a DCF e.g., TIFs.

This is a significant setback for the taxpayer and a particularly concerning development for hotel and hospitality owners in California. The decision reversed the taxpayer's lower court win that resulted in a \$150 million reduction to the asset's taxable value in 2023. The case was remanded to the lower court to determine whether the management fees fully account for the enterprise value derived from the management relationship.

American Dream Mall Tax Valuation Falls by \$850 Million

Ameream LLC v. Borough of East Rutherford, 35 N.J. Tax 457 (Aug 18, 2025).

In a significant win for the property owner, the New Jersey tax court reduced the assessed value of the American Dream megamall by approximately \$850 million for tax year 2025.

The American Dream Mall, located in East Rutherford, which cost nearly \$5 billion to construct (and which is not yet fully complete) opened in 2019 among a changing landscape for indoor malls. By 2024, its assessed value had been reduced by the taxing authority to \$3.3 billion. In March 2025, a reassessment brought that figure down by another \$800 million from \$3.3 billion to \$2.5 billion.

In its appeal of the tax year 2025 assessment, American Dream argued that the borough of East Rutherford used flawed valuation methods in arriving at its value conclusion. One key issue raised by American Dream was that in coming to its valuation, the borough treated the mall's retail leases for department store and inline spaces as standard triple-net leases. However, American Dream had provided information to the borough that the actual leases were modified gross leases, with American Dream, as the landlord, — a distinction that significantly affects valuation. The Tax Court agreed with the property owner and reduced the assessment for 2025 at approximately \$1.65 billion.

The reduced valuation approved by the Court represents a short-term financial win for the property, but underscores the broader trend of declining investment value in indoor shopping malls across the United States. Notably, this reduction in value is expected to reduce the amount that bondholders will receive in payments in lieu of taxes tied to the \$800 million in tax-exempt bonds issued to help finance the mall's construction.

Indiana Tax Court Reverses Decision in Favor of Kohl's, Finding that the Board of Tax Review Failed to Independently Evaluate the Appraisal Evidence

Madison County Assessor v. Kohl's Indiana LP, Case No. 24T-TA-00009.

The Indiana Tax Court recently reversed a decision of the Indiana Board of Tax Review finding that it failed to properly weigh and consider appraisal evidence.

The property owner of a single tenant retail property contested the property tax assessment of its retail location in Anderson, Indiana for tax years 2019 through 2021. The property owner argued that the assessments for 2019 (\$4,513,400), 2020 (\$4,517,000), and 2021 (\$4,517,000) exceeded the fair market value of the subject property based on appraisal evidence. Both the property owner and the Madison County Assessor prepared and presented expert appraisals during a hearing before the Indiana Board of Tax Review (the Board). The Board identified on the record substantial flaws in both appraisals including – a lack of good comparable sales in the sales comparison approach, a lack of good comparable leases in the income approach, and poorly supported decisions regarding adjustments within the cost approach. However, the Board found the property owner's appraisal more persuasive than the Assessor's appraisal. The parties agreed to stipulate to a value for 2019 and the Board reduced the assessed value to \$2,360,000 for 2020 and \$2,380,000 for 2021.

On appeal by the Assessor, the Indiana Tax Court reversed the Board's decision and the victory for the property owner. The Court concluded that the Board misapplied the law by accepting the property owner's appraisal without determining whether it independently reflected the property's true value. Notwithstanding that the Board found the property owner's appraisal more accurate than the Assessor's, the Board failed to establish that property owner's appraisal, "standing alone and independent of the competing appraisal, more likely than not represented the property's actual value." The case was remanded back to the Board for further proceedings consistent with the Court's opinion.