FEATURE:
Mike Hagen’s TaxCuts1

LET’S DO LUNCH & DINNER:
Stillwater Grille
TaxCuts1 and Hagen Law Firm Offer Help, Hope to Commercial Property Owners and Investors

By Elizabeth W. Pearce

Fort Myers real estate broker and attorney Michael S. Hagen has felt the effects of Southwest Florida's recent boom and bust as much as any residential or commercial buyer, seller or investor. The difference is that his businesses, TaxCuts1 and Hagen Law Firm, have been thriving even as the market has not.

Although they are distinctly different entities, the two companies offer complimentary services to assist residential and commercial property owners who need help with real estate-related transactional, litigation and tax valuation matters.

Through his law firm, Hagen deals with agricultural classifications and exemptions, as well as religious, charitable and homestead exemptions. The practice also offers a full spectrum of transactional commercial real estate services, such as closings, title insurance, buyer/seller representation and landlord/tenant representation in drafting and negotiating leases, and resolving disputes.

"TaxCuts1 deals with valuation disputes and property tax appeals. "If someone wants to appeal a substantial valuation, I render a broker price opinion (BPO) and guide a client through the process of informal negotiations as well as formal administrative appeals before the Value Adjustment Board (VAB)," says Hagen. "But when valuation cases become court cases, I put on my attorney cap to represent the owner in litigation."

Hagen is uniquely qualified to handle both the legal and valuation aspects of real estate. Not only has he practiced real estate law locally since 1985, he worked as the in-house counsel for the Lee County Property Appraiser's office from 1994-2003, an experience he describes as "invaluable. Going in-house with the property appraiser's office was the second-best career move of my life. It was a great opportunity to learn the process inside out and represent the property appraiser in approximately 130 assessment lawsuits."

As beneficial as it was, Hagen says he has never regretted leaving that role to start his two companies. In the nine years since, both companies have grown. TaxCuts1 now has two employees and Hagen Law Firm employs three attorneys and three paralegals.

While Hagen specializes in property tax issues, real estate transactions, trusts, wills and probate, attorney Robert Hynds focuses on foreclosure defense, bankruptcy and real estate litigation. Tim Steele, a former assistant county attorney, works mainly on real estate litigation and local government law. All three are graduates of Stetson University College of Law in St. Petersburg.

MARKET AWARENESS

Hagen's ability to recognize trends in the real estate market has prompted him to shift his professional focus periodically over the years. "When I left the property appraiser's office after 10 years, I thought I'd be 100% in property tax law," he says. But when the demand for real estate legal services from buyers and sellers escalated in 2004, Hagen became heavily involved in the transactional side.

"At that time, there were thousands of owners of vacant lots, mainly in Cape Coral and Lehigh Acres, who weren't paying their taxes or had lost interest in properties they'd held for a long time. Once the values began escalating, a huge number of certificate holders started applying for tax deeds and scores of lots went to sale."

In order to get clear title, buyers would hire Hagen to file a quiet title action on their behalf. "That became a cottage industry for me for several years," until real estate transactions dried up. Once again, Hagen's law practice shifted gears from transactional to litigation services, such as foreclosure
defense, bankruptcy, buyer-seller disputes and more. "As more people lost their jobs and defaulted on their mortgages, foreclosures skyrocketed from fewer than 100 per month to as many as a couple thousand a month."

Hagen says that while the numbers have fallen from their highs, "each week, we're still meeting with several new clients whose lenders are foreclosing on them," as well as a handful of banks. However, his focus has shifted again to short sale negotiations on behalf of homeowners. "Lenders are realizing they're better working with a homeowner to get part of what they're owed in a short sale rather than have a lengthy foreclosure, so we're seeing substantially improved results."

Frequently, Hagen's firm sees people whose only assistance on a prior short sale was from a title company or Realtor. According to Hagen, they often assume that their problems are behind them, only to find out months later that the lender expects to collect the mortgage balance.

"Probably the most important reason to have legal representation is to ensure that the borrower fully understands what they're responsible for if a short sale goes through. We personally review every single short sale approval letter from the bank and counsel the borrower on what the implications are for them in their particular case." His firm also provides bankruptcy services "as a last resort."

APPEALING SAVINGS FOR COMMERCIAL CLIENTS

Meanwhile, business is booming at TaxCuts1 as more commercial property owners seek ways to cut expenses and control costs. "I can tell you that 2011 was probably our best year since 2005. Even though property values have dropped significantly, many properties remain overvalued and are over-assessed."

There are a number of reasons why the property appraiser may come up with an inaccurate assessment, namely the limited time to assess an overwhelming number of individual properties. Further, when assessing commercial real estate, there are countless valid reasons for changes in value from one year to the next; circumstances and information that aren't obvious or readily available to the property appraiser. It's TaxCuts1's responsibility not only to bring that information to the property appraiser's attention, but to convince him how it affected the property's value during that tax year.

Doing so can be especially complicated when appealing the assessed value of mixed-use or multi-purpose, income-producing commercial properties. Such assessments are largely influenced by a property's leases, namely how much rental income the property appraiser believes the space is generating per square foot. "The problem is, they don't take tenant turnover into account," says Lee County businessman Todd Carroll.

Carroll owns several commercial properties in Lee County, one of which is a hotel with three on-site restaurants. Although the hotel has always been profitable, the same can't be said of the restaurant space, which in recent years has had various tenants default on their leases. Despite the dramatic drop in income, the property's 2011 taxable value was assessed at $3 million.

"They thought I was getting a nice price per square foot, even though the property wasn't performing to the level

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they claimed,” says Carroll. “But as an owner, it’s up to me to prove it.”

Carroll hired Hagen to compile and present the documentation to support his appeal. “There’s an awful lot of data to format in a way that they’re going to be able to wrap their arms around and agree with you. Mike put together a very nice package.” Ultimately, Hagen was able to get the hotel’s taxable value reduced by a whopping 40% to $1.8 million.

Hagen has also gotten significant property tax reductions for clients of commercial broker Stan Stoudler, CCIM and a partner in CRE Consultants. “I don’t know anyone who has more knowledge, experience or integrity than Mike,” says Stoudler, who has known Hagen for more than 30 years. “I’ve always thought highly of him.”

Stoudler says that Hagen’s expertise is ideally suited to evaluating whether or not a commercial property is fairly assessed — a difficult task in a changing market. “In a market where prices are falling, the assessments are not likely to keep pace with the drop. Mike can validate that the property has declined in value since the most recent assessment,” resulting in considerable savings on the owner’s tax bill.

In other cases, commercial valuations are skewed by comparables that don’t reflect true market values. That’s what RE/MAX Realty Group Owner/Broker Michael Frye faced in 2005, when the taxes on an office building he owns spiked to approximately $50,000. According to Frye, recent sale/leaseback transactions involving banks and investors had created very high comparables, thereby inflating his property’s value.

“We felt (the comparables) were not really indicative of the market (because) they weren’t exactly arms-length transactions,” says Frye, who immediately launched an appeal. He enlisted the aid of Hagen, a long-time friend and former RE/MAX colleague. “Mike was able to show other comparables in the area and prove that our assessed value should be reduced.” The reset value saved Frye between $15,000 and $20,000 in taxes that year and has had a residual effect on his property tax bill every year since.

Frye says that while he could have conducted the appeal on his own, he worked with Hagen “for the same reason people hire Realtors when they’re buying or selling real estate. Mike does this on a daily basis. He knows all the professional ways to execute an appeal and to do it expeditiously. Also, he knows exactly what to look for on each property.” This saved Frye the frustration of going over the same records and submitting the same paperwork multiple times and still not getting the desired result.

Private sector owners aren’t the only ones seeking TaxCuts1’s assistance. “I’m seeing more and more lenders wanting to contest their property tax values now that they own properties they’ve taken back through foreclosure or deed in lieu of foreclosure,” says Hagen. “Like many other owners, they may not be able to sell quickly, so they’re looking to minimize their carrying costs.”

SUCCESSFUL TAX-REDUCING STRATEGIES

Last year, TaxCuts1 successfully appealed about 90% of the property tax cases it accepted. “Property appraisers are often correct and if so, we’re not going to pursue it. But I get some of the more unusual cases where (the assessed value) may have been miscalculated. Initially, we don’t always know who is correct. But ... we’ve seen some tremendous results here in the last couple of years.”

Starting early is the key. “Given sufficient time, there’s a whole range of things both of my companies can do

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in the appeals process," says Hagen.

At TaxCuts1, July 1st is an all-important date. That’s the property appraisers’ deadline to submit assessed values for all taxable property in their county to the Florida Department of Revenue. “That’s when I like to start working on cases. First, I find out what this year’s value is and compare it to my BPO. If there’s a significant divergence in opinions, I have time to talk to the property appraiser to see if things can be informally resolved.” Frequently, they are.

Similarly, January 1st is critical for property owners seeking an agricultural classification because that’s the “snapshot date” for all property assessments. “If a client wants to position himself for an agricultural exemption as of Jan. 1, 2013, I’ll work with him for most of this year to get the property set up” with fencing and cattle, says Hagen. “By next year, we’ll be in a good position to get that exemption.”

Despite the perception that the exemption is merely a loophole for greedy developers and landholders, Hagen says the ag classification is a legitimate way for some property owners to reduce their tax liability. “As market values have plummeted, putting the property into agricultural use is one of the best ways for owners to hold their properties without paying exorbitant taxes. It’s really no different from itemizing deductions on an income tax return.”

**ONGOING VALUATION DEBATES**

A popular speaker on property tax law, Hagen says there continue to be heated discussions over specific valuation methods and their effect on property tax assessments. One of the most controversial is whether or not property appraisers should use REOs or short sales in their opinion of value.

Hagen says that while the property appraiser might have a valid reason for excluding some REO values or short sales for residential properties, they definitely should be used in determining commercial property values. For example, he cites the case of a client who bought five bay-front lots at a bankruptcy-ordered auction in 2009 for $1.3 million. The next year, they were assessed at $4 million. In representing the client, Hagen argued that the auction price was the best indicator of market value.

Although the property appraiser disagreed, the magistrate at the VAB hearing sided with Hagen and ultimately the assessment was reduced to $1.3 million. “That case demonstrates the kind of impact the decision to include or exclude REO sales can have on the assessment and on the tax bill. I think it’s something that should be addressed on a case by case basis.”

The cost-of-sale adjustment is another important issue. “The problem is, when there’s a value assessment dispute before the VAB, the property appraiser wants to argue (in favor of) 100% market value, even though they claim to have made a 15% cost-of-sale deduction. Some do and some don’t, and that makes a huge difference in value. It needs to be the same for the tax rolls as it is for the VAB.”

**THE DEMAND TO EXPAND**

Hagen says he doesn’t see business at TaxCuts1 slowing and in fact, plans to franchise TaxCuts1 by early 2013. In addition to a “template of techniques and methods,” the franchise will include the TaxCuts1 name, brand and logo, as well as training and education.

“I realize there are plenty of tax consultants in Florida. But because we’ve been doing it longer and more successfully than most of them, we believe this will be the first one that can successfully be replicated. We want to educate people about how to do what we do here in Southwest Florida so they won’t have to reinvent the wheel.”

Even with the franchise, Hagen says he’ll keep his primary focus on his businesses and staying abreast of ever-changing tax laws and procedures. He adds that he’s equally committed to cultivating cooperative professional relationships.

“I have made it a personal goal to build bridges, not burn them. There’s a lot of collegial work that goes on between my office and the property appraisers’ offices. We’re in the same business, just different sides. I’ll continue to agree with them when I should and disagree — respectfully — when I must.”