

AROUND THE DOME

WPW legislation rears its ugly head, again

Ever since the Michigan Supreme Court ruled in favor of WPW Acquisition Company vs. City of Troy back in 2002, Legislators have introducing bills to “fix” the problem. However, the only real problem is that the fix is usually worse than the issue it purports to be fixing. When Proposal A was adopted, it placed limits on increases in real property tax with a cap at the rate of inflation or 5%, whichever was less. The Constitution provided that a property’s value could be adjusted for additions, without regard to the amendments cap. Subsequently, the Legislature adopted a law expanding the definition of “additions” by including an increase in a property’s value due to increased occupancy by tenants, thus allowing property value increases to surpass the cap. WPW argued and the court agreed, the term “additions” was to be interpreted as it was intended when Proposal A passed, thus the cap remains in place.

Several attempts have been made legislatively to redefine the terms “increases” and “losses” for commercial property tax values in an attempt to help increase revenue for local municipalities. These bills are generally referred to as “WPW” bills. This legislative session, bills have been introduced by Representative Vincent Gregory, (D- Southfield) on behalf of the City of Southfield. The bills circumvent the cap by creating a new classification of business tax assessments, outside the General Property Tax Act. BOMA has vigorously **opposed** this legislation as unconstitutional - - it deliberately circumventing the Proposal A cap and retroactively increases assessments on commercial property.

This past April 29th, the House Tax Policy Committee held a hearing on Rep. Gregory’s latest reincarnation of the WPW bills, HB 4456 and 4457. Dan Gustafson from Scofes & Associates Consulting, Inc. (S&A) and Janet Langlois, Executive Director of BOMA, presented strong testimony on behalf of BOMA against the bills. Due in large part to the negative response the legislation received, and the questions raised by the committee, no vote was taken.

Following the committee hearing, Rep. Gregory asked interested parties to join him for a WPW work group on Thursday April 30th. At the workgroup, in which BOMA was represented by S&A, Rep. Gregory handed out a substitute bill for HB 4456, and asked the participants for their input. The substitute would keep commercial property in the General Property Tax Act, (not a separate tax roll). The Proposal A cap would remain in place. The bill would allow for loss due to occupancy rates to continue through the end of the year, but then going forward, not allow any losses or gains based on occupancy.

It is Rep. Gregory’s intention to take the substitute bill up again in the Tax Policy Committee as early as next week. The BOMA Government Affairs Committee is reviewing the potential impact of this bill on the commercial real estate industry and, working with S&A, is aggressively lobbying the Legislature to protect our interests, and promote a fair property tax system.