

Good Afternoon.

Members of the Ohio House Ways and Means Committee, I appreciate the time to present HB 751. HB 751 has two parts:

1. It allows a tenant of a property the ability to contest the real property taxes with standing as a land owner if the lease requires full payment of real estate taxes.
2. HB 751 allows a business that has been adversely affected by COVID-19 the ability to contest real estate taxes while factoring into account the possible decrease in value of real property.

I have included some language below for your review:

Real Estate Taxes: Tenant shall pay and discharge all Real Estate Taxes payable or accruing for all period(s) within the Term, before failure to pay creates a material risk to Landlord of forfeiture or penalty, subject however to Tenant's right of contest as this Lease expressly provides. Tenant shall also pay all interest and penalties any Government assesses for late payment of any Real Estate Taxes, except late payment because Landlord failed to promptly forward Tenant a copy of any applicable bill that Landlord receives. In such case, Landlord shall pay such interest and penalties. Tenant shall within a reasonable time after Notice from Landlord, but in no event later than the applicable due date, give Landlord reasonable proof that Tenant has paid any Real Estate Taxes that this Lease requires Tenant to pay. Tenant shall have the sole right and authority to contest Real Estate Taxes, in compliance with the Contest Conditions, so long as the Contest does not have a negative and material impact on the Landlord, and provided, however, that Tenant shall have no right to initiate any Contest during the last year of the Initial Term or last year of an applicable Renewal Term, unless Tenant has exercised its option to the next Renewal Option.

Tenant's Right; Contest Conditions. Notwithstanding any provision to the contrary in this Lease, Tenant shall have the right to contest, at its sole cost, by appropriate legal proceedings diligently conducted in good faith, the amount or validity of any Real Estate Taxes or Prohibited Lien; the valuation, assessment, or reassessment (whether proposed, phased, or final) of the Premises for Real Estate Taxes; the validity of any Law or its application to the Premises; the terms or conditions of, or requirements for, any Approval, subject to Landlord's approval right as outlined in Section 4.2; or the validity or merit of any claim against which this Lease requires Tenant to Indemnify Landlord (any of the foregoing, a "Contest"); provided, however, that Tenant shall have no right to initiate any Contest during the last year of the Initial Term or last year of an applicable Renewal Term, unless Tenant has exercised its option to the next Renewal Option. Tenant may defer payment or performance of the contested obligation pending outcome of the Contest, provided that Tenant causes the following conditions (collectively, the "Contest Conditions") to remain satisfied (and any dispute about Tenant's satisfaction of the Contest Conditions shall be resolved by Arbitration): (a) in Landlord's reasonable opinion, such deferral or noncompliance creates no material risk of a lien, charge, or other liability of any kind against the Fee Estate, unless Tenant has given Landlord Contest Security equal to the reasonably estimated amount of such lien, charge, or other liability; (b) such Contest shall be without cost, liability, or expense to Landlord; (c) Tenant shall prosecute such Contest with reasonable diligence and in good faith, and (d) the Contest does not create a default between Landlord and its Lender.

Also see attached.

I am happy to answer any questions related to the HB 751.