

The Real Estate Tax System Has To Change

By James Goldstick, Mark Greenberg Real Estate Co. LLC



Every January the City of New York releases the new assessed values for all properties. All increases and decreases of the assessed value are phased in over a five-year period. This phasing results in a calculation to determine the transitional value for each property. The real estate taxes are then determined by multiplying the tax rate by the lesser of the assessed value or transitional value.

A 120 unit Co-op in Bayside that is managed by Mark Greenberg Real Estate experienced an increased assessed value from \$3,982,500 to \$6,894,450 since 2007. Significant increases like this are not the exception in New York City. Unfortunately, there are many other Co-op's and Condominiums that have faced similar staggering increases over the past five years. As the City phases in these increases over the five-year transitional period, the result is that many Co-op's and Condominiums have seen their real estate taxes double over that period of time.

In order to combat these huge increases, most Co-op and Condominiums hire tax certiorari attorneys to file protests in order for the City to reduce the assessed value. Tax certiorari attorneys charge a contingency legal fee based on the total savings that the property owner will derive during the five-year transitional phase in period. The fee usually ranges from 15% to 25% of the total savings. These legal fees can be very significant.

In January 2011, the Bayside Co-op was notified by the City of New York that their assessed value was being increased by over 60%. This Co-op, along with many other Co-op's in Eastern Queens, appealed to the City to reduce the enormous and egregious increase. The City did reconsider many of the increases but the request for this Bayside Co-op was denied. The response from the City was that the substantial increase was justified based on comparable values of other similar apartment buildings in the neighborhood. The Co-op then filed a tax certiorari action and was successful in having the assessed value reduced by approximately 25%. The board was very happy with the result. However, their excitement was tempered by the \$37,000 legal fee charged by the law firm for their services to resolve the reduction.

In January 2012, the City notified this Bayside Co-op that the assessed value was being increased again as of July 1, 2012 to an amount slightly less than the 60% increase one year earlier. Unless the City would reconsider this increase, the \$37,000 spent in 2011 would have been wasted as the City brought the assessed value back up the level that had been successfully protested few months earlier.

The Co-op brought this issue to the attention of State Senator Toby Stavisky and Assemblyman Ed Braunstein. On January 27, 2012 Senator Stavisky wrote to Department of Finance Commissioner Frankel and requested that the City reconsider this substantial increase on the heels of the tax certiorari settlement a few months earlier.

To everyone's dismay, on March 22, 2012 the City replied to Senator Stavisky and denied the request. The result of this denial is that the Co-op has to file another tax certiorari proceeding and incur more substantial legal fees. In the March 22 reply, the Department of Finance stated, "While the tax commission may grant a remission for a prior year for a property, the Department of Finance may agree or disagree with the Tax Commissioner's determination."

There are many problems with the methodology used by the Department of Finance in order to determine real estate taxes for Co-op's and Condominium's. However, this outrageous statement summarizes the absurdity of the system. On one hand the Department of Finance tells property owners that if they do not agree with the assessed value then a tax certiorari action should be filed with the Tax Commission. However, the Department of Finance then says that they do not have to agree with the findings of the Tax Commission and can ignore the findings of the Tax Commission the following year. This results in an increased assessed value back to the level prior to the Tax Commission determination.

Immediately after receipt of the March 22 letter, I met with Assemblyman Braunstein and suggested that this process has to be changed so the Department of Finance cannot ignore the findings of the Tax Commission. Assemblyman Braunstein and Senator Stavisky have introduced two bills to the State Legislature. The first bill will limit assessed value increases for the two years following a tax certiorari settlement to 3% increases per year. The second bill will require the City of New York to contribute 25% of the legal fees incurred by a property owner as a result of a tax certiorari settlement. All Co-op shareholders and Condominium owners should contact their local State Senators and Assemblypersons and seek their support for these two pending bills.

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