An IMPACT Special Report:

Town of Mamaroneck Decides Not to Elect "The Homestead Tax Option"

By Daniel S. Finger, Esq., Finger and Finger, A Professional Corporation

MAMARONECK–The Town of Mamaroneck, which is currently completing a revaluation of its tax assessments, held a Public Hearing on Feb. 27 to help decide on whether or not to elect "The Homestead Tax Option."

Our firm, chief counsel to The Building and Realty Institute (BRI) and its affiliate association, The Cooperative and Condominium Advisory Council (CCAC), was asked to represent the associations at the hearing.

A huge turnout of residents from the Town of Mamaroneck spoke out against The Homestead Tax Option. The residents were vociferous in their opposition to the proposal. At the end of the Public Hearing, after many comments and a great deal of discussion, the town board decided not to elect The Homestead Tax Option.

The Public Hearing began with a presentation from a representative of the State of New York who explained what The Homestead Tax Option is and how it would affect the residents of the Town of Mamaroneck (and certain condominium unit owners in particular).

Over the past several years an increasing number of municipalities in our area – the Westchester and Mid-Hudson Region – have undertaken revaluation projects similar to the one in Mamaroneck. Analyzing whether or not to adopt The Homestead Tax Option seems to be a relatively normal part of such a project, though not one to be taken lightly.

The initial presentation at the Public Hearing was followed by a second presentation that provided additional detail on the revaluation project in general and the impact of the Homestead Option versus the Non-Homestead Option on the condominium unit owners that would have been affected.

If the Town had elected The Homestead Tax Option, any condominium that was built as a condominium (not converted) would be part of the residential class for purposes of establishing the taxable value, which means that the value would be computed by calculating the selling price of the units.

Currently, all condominiums are considered commercial property for purposes of calculating the taxable value (i.e. the "income approach").

The average-affected con-

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Proper Procedures for Interviewing Prospective Shareholders in Co-ops the Topic of Mar. 20 Meeting of Co-op & Condo Group

By Jeff Hanley, IMPACT Editor

WHITE PLAINS – "How to Interview Prospective Shareholders in Co-ops" is the subject of the Mar. 20 Membership Meeting of The Cooperative and Condominium Advisory Council (CCAC).

CCAC officials recently announced the scheduling of the event, which will begin at 6:30 p.m. The meeting will be at The Crowne Plaza Hotel in White Plains.

Mark Fang, executive director of The Westchester County Human Rights Commission, will be the keynote speaker.

"We are very happy that Mr. Fang has agreed to speak to our membership," said Diana Virrill, CCAC chair. "We urge our members to attend this meeting. We will be addressing a very important issue to our members."

Fang, who was appointed to his position last year, is an attorney. He has worked in the public and private sectors, county officials said.

A practicing attorney for 17 years, Fang was an assistant attorney general in the Criminal Division of the New York State Attorney General's Office. He has also served as an assistant district attorney in the Westchester County District Attorney's Office, the first Asian American to be appointed to that position in Westchester County, according to county officials.

Fang is a Phi Beta Kappa graduate of Tufts University and received his law degree from Georgetown University Law Center. He has been in the private practice of law since 2000, where he has concentrated on litigation, in both criminal and civil matters. He is a former board member of the Westchester Chapter of the Organization of Chinese Americans. Fang is originally from Yorktown Heights and is a graduate of Yorktown High School, county officials added.

Those interested in attending the conference can make reservations by calling the CCAC offices at (914) 273-0730. CCAC officials said that the meeting is open to all members of the association, as well as to all members of The Building and Realty Institute (BRI), an affiliate of the CCAC.

The CCAC is a realty industry membership organization. The association is composed of more than 400 co-ops and condos. The CCAC, based in Armonk, was formed in 1979.

THE AOAC MEETS – The Apartment Owners Advisory Council (AOAC) held its Winter Membership Meeting on Feb. 14. Pictured at the event are, from left to right, Dan Finger, counsel, AOAC; Carmelo Milio, chair, AOAC; and Albert Annunziata, executive director, AOAC. The event was at The Crowne Plaza Hotel in White Plains. A full report is on page one.

Photos by Myron Marcus

ADDRESSING MANAGEMENT ISSUES – The Jan. 28 Membership Meeting of The Cooperative and Condominium Advisory Council (CCAC) addressed issues related to communications between property managers and boards of co-ops and condos. Pictured during the event are, from left to right, Diana Virrill, CCAC chair; Mark Garrahan, CCAC member; and Leonora Merkel, CCAC member. More than 45 CCAC and Advisory Council of Managing Agents (ACMA) members attended the conference at The Crowne Plaza Hotel in White Plains.

LOOKING AT 2013 – The Board of Trustees of The Building and Realty Institute (BRI) met on Jan. 10 at Crabtree's Kittle House in Chappaqua. A portion of the meeting's agenda focused on the key issues that will affect the building and realty industry in 2013. Pictured during the event are, from left to right, Joe Pizzimenti, BRI board member; Mark Drexel of Con Edison, a guest speaker at the meeting; Ken Finger, chief counsel, BRI; and Gus T. Boniello, BRI board member and former BRI president.

Save Your Records –
New York State's New Tenant Protection Unit May Ask You to Produce The Documentation

COUNSEL'S CORNER

By* Kenneth J. Finger, Esq., Carl L. Finger, Esq., and Daniel S. Finger, Esq. Finger & Finger, Chief Counsel, Building & Realty Institute (BRI)

WHITE PLAINS—Whether or not you are familiar with the (relatively) new Tenant Protection Unit (TPU) at The New York State Homes and Community Renewal Agency (HCR), the only advice that we can give you—which we urge you to heed—is to please save all of your records!

Many landlords may be unfamiliar with the TPU and have not yet had any involvement with this new branch of HCR. The TPU was created approximately one year ago by Gov. Andrew Cuomo as part of an effort to "proactively enforce landlord obligations to tenants and impose strict penalties for failure to comply with HCR orders and New York's rent laws."1

The mission of the TPU, as stated by Cuomo, is to "proactively prevent problems and root out fraud that can wreak havoc in the lives of rent-regulated residents."2 The TPU will have the ability to enforce Landlord obligations and impose strict penalties for failure to comply with New York State's rent laws.

The Focus

In layman's terms, the TPU is focused on eliminating fraud that arises from Major Capital Improvements (MCI's) made to units and the buildings and the resulting increases to the monthly rents of units. More specifically, the TPU will be investigating improvements made to individual apartments, including—and especially those made—on vacancies. This is likely to be the most common situation for investigation.

Other situations for investigation by the TPU may include buildings that are the subject of building-wide orders due to service reductions and buildings that had ceased filing rent registrations with HCR. Upon completion of Major Capital Improvements (MCI's), landlords are entitled to a permanent increase in the monthly rent based on the cost of the project.

Procedurally, the TPU reviews all of the apartment registrations and building registrations submitted annually by Landlords to determine if there have been any increases in the monthly rents of any apartments that are greater than the guideline increases that were approved by the local Rent Guidelines Board for that year. As stated above, this will enable the TPU to target apartment units (and, as a result, landlords) that should be investigated for potential fraud due to increases, especially on vacancy, that exceed the normal (guideline) amount.

Being thorough, accurate and complete with the Landlord's documentation and records can only help protect the Landlord against the TPU disallowing portions—or all—of the Major Capital Improvement Increases being sought by, or being charged by, the Landlord (in addition to other penalties or ramifications).

In the event that the TPU discovers that there has been such an increase, the TPU will initiate a process that includes a further review of the registration and supporting documentation to determine whether there has been an overcharge. The TPU will communicate directly with the Landlord to obtain all documentation and records that will assist the TPU with its analysis and examination of the registration.

This includes having the Landlord complete a three page worksheet for each apartment under investigation and providing cancelled checks, invoices and contracts for said work.

Additional Documentation

After the TPU completes its initial review—a process which can take anywhere from several weeks to several months—the TPU typically requests additional documentation from the Landlord by serving the Landlord with a Subpoena Duces Tecum. A Subpoena Duces Tecum is a legal document by which a party to a proceeding—in this case the TPU of the New York State Division of Homes and Community Renewal (DHCR)—demands documents from another person who is a witness.3

The time frame within which to respond to these subpoenas can be as little as 21 days from the date that the subpoena is signed. These subpoenas are often duplicative of the documents and materials previously supplied by the Landlords, but there is no way to avoid responding.

The demands of the subpoenas are broad not only in terms of the documents and records requested, but also in terms of the time frame of the records and documents requested. Generally, the subpoenas require documentation for a four-year period and for the Landlords to provide a copy of all documents being produced.

Although specific documents requested will vary on

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TECH TALK

Five Ways That Technology Should Drive Your Business

By Andrea Wagner
Wagner Web Designs, Inc.

1. Reaction and Delivery Must Be Faster

Because of the speed in which our messages are delivered (email, text, mobile), you can no longer afford to delay a response. People have shorter attention spans and less patience (remember TV before DVR?). When you receive an inquiry or order, it must be dealt with immediately, or at least a confirmation and initial conversation must be had, or your customer will move on.

2. Go Mobile

Before you know it, mobile will be the primary way consumers access the internet. Make sure your site is mobile ready.

3. Going Global?

If your business is to sell global, read on. There are 1.2 billion people in an emerging middle-class market in Asia, Eastern Europe, Africa, China and India. How do you sell to them? Tailor your business to their needs? You're not going to reach them with traditional means of marketing.

Technology will assist in handling differences with culture, language, money transactions, and time differences.

4. Be Flexible and Stay Current

Technology has trained us to expect multiple shipping options, paying options and a fair return policy. Your message cannot get stale. Just because you did really well in a particular market five years ago doesn't mean it is relevant today. Make sure you are keeping up with the trends.

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5. Look Outward

Every day, people are blogging, reviewing, tweeting and sharing information on products and services. The Center for Global Information is a group that will analyze data in a particular category. You may get a jump on where the market is going.

Entrepreneurs need to read and become aware of emerging technology that, while may not be directly in their market, may either render their product obsolete, or assist them in gaining a greater market share.

Editor's Note: Andrea Wagner has been creating websites for small business for over 16 years. Contact her for design, redesign, updates for your site, SEO or to discuss creating a mobile site for your business. She can be reached at www.wagnerwebdesigns.com, or (914) 245-2626.

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dominium unit has a current equivalent market value of $193,000. With the soon to be completed revaluation, this will rise to approximately $299,000 under The Non-Homestead Option. Had the Town decided to utilize The Homestead Option the value would have increased to $505,000!

Needless to say, the amount of actual property taxes due would increase drastically under The Homestead Tax Option versus The Non-Homestead Scenario.

While taxes will rise for almost all of these affected condominium unit owners, this type of increase (by an average of approximately 67 percent over the anticipated taxes under the new Non-Homestead valuation) is not feasible for many of the residents and would cause extreme hardship.

Many important points were raised to the Town Board for its consideration in deciding whether or not to elect The Homestead Tax Option, including the following:

*Residents purchased their condominium units with the expectation of a certain level of property taxes. Not only would this increase the amount of taxes but this would unfairly change the fundamental method by which the assessment is calculated for these affected units.

*Many residents would no longer be able to afford their homes due to the drastic increase in taxes. The result would be the loss of a great deal of affordable housing in the community.

*Such increases would remove disposable income from the stream of commerce, thus negatively affecting the commercial properties and businesses in the area.

*In many ways, these condominiums, by their very nature, do not impact the community or use the community's resources in the same way, or to the same degree as the single family homes (i.e. garbage collection, street maintenance) and therefore using the same method to calculate taxes is inherently unfair.

*This overwhelming increase in taxes would destroy the property values of these condominiums and the ability of these condominium unit owners to sell their units.

In addition to the above issues, a number of people related their own personal stories detailing the effects that the dramatic increase in taxes would have on them and their ability to continue to live in their homes. Most striking was the fact that, despite the dramatic increase that The Homestead Option would have on the affected unit owners, the property taxes for owners whose properties are already classified as homesteads (i.e. owners of 1-3 family homes) would be virtually identical under the new valuation whether The Homestead Tax Option was used or not. In other words, they would not know the difference.

In conclusion, although the mechanics of The Homestead Tax Option are complex and difficult to understand, the harsh impact of this proposed local law is easy to see. Fortunately, the Town of Mamaroneck Board listened to the residents who appeared at the Public Hearing, recognized the inequity of the Homestead Tax Option and the hardship that adopting it would have caused and wisely decided not to adopt The Homestead Tax Option.

Editor's Note: Daniel S. Finger is an attorney with Finger & Finger, A Professional Corporation. Finger and Finger is Chief Counsel to The Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI). The firm is based in White Plains.

DeClerck and Woolley Installed as Presidents of the Hudson Gateway Association of Realtors and Hudson Gateway MLS

WHITE PLAINS—Katheryn DeClerck, an associate broker with Better Homes and Gardens Rand in Warwick, will serve as the 2013 President of the Hudson Gateway Association of Realtors (HGAR), association officials recently announced.

Russ Woolley, owner and principal broker of Wright Bros. Real Estate in Nyack, will be the President of the Hudson Gateway Multiple Listing Service (HGMLS), officials added.

DeClerck succeeds Nancy Kennedy of Houlihan Lawrence in Croton, the 2012 HGAR President. Woolley takes over the reins from Gary Leogrande of Keller Williams in White Plains, the 2012 HGMLS President.

Kennedy and Leogrande will remain on the Executive Committees of HGAR and HGMLS respectively, officials added.

DeClerck is currently a Director with the New York State Association of Realtors (NYSAR) and has chaired NYSAR's Communications and Public Relations Committees. She has served on NYSAR's Grievance Committee, was a Director with the former Orange County Association of Realtors (OCAR) for five years, and chaired its Diversity Committee. In 2011, she was named OCAR's "Realtor of the Year."

DeClerck holds many designations, including Green; GRI; ABR; ASR; Certified e-PRO; Certified by the National Association of Hispanic Real Estate Professionals and At Home with Diversity. In addition, she has been a volunteer with the United Way of Orange County since 2007, serving on various committees and making site visits to its many agencies, including Big Brothers, Big Sisters, Literacy Volunteers, and Food Bank.

Woolley has been in the real estate business for 34 years. He has served as president of the former Rockland County Board of Realtors (RCBR) and has been the owner and principal broker of Wright Bros. Real Estate for the past 11 years. Woolley is a Charter Member of the Congers/Valley Cottage Rotary Club and Chairman of the Church Council of the New City United Methodist Church. He also serves on the Committee of Church and Society, which is involved with social concerns.

In addition to the president, the 2013 HGAR Officers elected include: Diane Cummins of Douglas Elliman in Somers as HGAR's President-Elect for 2014; John Lease III of John Lease Realtors in Newburgh as Regional Vice President, Orange County; Drew Kessler of ERA Tucker Associates in Nanuet as Regional Vice President, Rockland County; Gail Fattizzi of Westchester Real Estate Inc. in Eastchester as Regional Vice President, Westchester/Putnam Counties; and Jennifer Maher of Keller Williams in White Plains as Regional Vice President, Westchester/Putnam Counties. Sharon Tucker of ERA Tucker Associates in Nanuet will serve as Secretary-Treasurer.

The new HGMLS Officers include J. Philip Faranda of J. Philip Real Estate in Briarcliff Manor as Vice President; Leah Caro of Bronxville-Ley Real Estate in Bronxville as Secretary and Rosemarie Pelatti of Keller Williams in New City as Treasurer.

HGAR is a not-for-profit trade association covering more than 9,000 real estate professionals doing business in Westchester, Putnam, Rockland, and Orange counties.

HGMLS, owned by HGAR, offers some 24,000 properties in the Bronx, Westchester, Putnam, Dutchess, Rockland, Orange, Sullivan and Ulster counties. It is among the top 50 largest MLS's in the country, association officials said.