

Contesting Your Property Taxes May Offer You Relief

COUNSEL'S CORNER

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WHITE PLAINS—A property owner (Cooperative, Condominium or Landlord) being taken advantage of by the government is nothing new.

Tax Assessments rising; Tax Rates going up; and municipalities doing complete reassessments are some examples — and just a few. In a variety of ways, New York State is constantly taking advantage of all types of property owners, but especially Cooperatives, Condominiums and Landlords by increasing the financial burdens and making it more difficult to operate a building.

Property Taxes, which are virtually guaranteed to rise every year (even with the so-called “Two Percent Cap”), are just one more way that the State is taking its bite out of “the ever-shrinking apple.”

Contesting your Property Taxes is one way to fight back against the government by attempting to have your Tax Assessment reduced. A Tax Certiorari Proceeding is the name for the process by which a property owner can contest his or her tax assessment, thereby hopefully reducing the taxes that it would otherwise be required to pay. If successful in the Tax Certiorari Proceeding, a Cooperative, Condominium or Landlord will not only save themselves money by reduc-

ing their Tax Assessment, but they also may obtain a refund for overpaid taxes during the years for which they have filed the Tax Certiorari Proceeding.

And, if successful, they will receive the additional benefit of having the reduced assessment held at the level of the most recent year of the proceedings for a period of at least three years following the proceedings.

Beginnings

The first step in the Tax Certiorari Process is to file a grievance of your Tax Assessment with your local (City or Town and/or Village) Municipal Taxing Authority. The date on which this grievance must be filed depends on when the Municipal Taxing Authority publishes (or “opens”) the Tax Rolls.

Once the rolls are opened, the aggrieved property owner must file his or her “grievance” by a certain date, or they will forfeit their right to contest their taxes for that year. Following the grievance filing, the local Board of Assessment Review will examine each grievance filing and determine whether to grant or deny the grievance. In most cases, these grievances are denied as a matter of course.

The Board of Assessment Review publishes its decisions

on all of the grievances filed by publishing (or “filing”) the final assessment roll for the municipality. Assuming that the Landlord’s grievance is denied, the landlord then has 30 days to file the Notice of Petition and Verified Petition contesting the Tax Assessment for the property for that year.

In New York State, Tax Certiorari Proceedings are Supreme Court Proceedings. This is in contrast to the Small Claims Assessment Review Proceedings that are available to homeowners of residential properties.

A Key Fact

It is important to keep in mind, however, that a new proceeding (including a new grievance) must be filed for each year in which the Cooperative, Condominium or Landlord believes that the property has been over-assessed. It is also important to communicate with the attorney during the course of these proceedings as these proceedings are extremely time-sensitive, and the filing dates involved are firm and non-negotiable (if a filing date is missed, the filing for that year is forfeited).

In addition, to further complicate matters, the filing dates vary (as previously stated) depending on the municipality.

Typically, these proceedings

will be filed for several years (four to six years, or more) before any meaningful settlement negotiations take place with the representatives for the local municipal authorities. These proceedings are normally resolved together at one time

sulting size of the refunds, there is also a great deal of politics involved in getting the municipal board or council to approve the settlement even after it has been agreed to by the parties’ representatives. Although this can delay the refund, in general the settlements are approved and the funds are distributed to the parties in accordance with the agreed judgment.

If you are tired of the yearly tax increases and are looking for relief, we strongly recommend that you contact an attorney to discuss your situation, sooner rather than later. In a future issue we will discuss the benefits afforded Coopera-

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and a refund will be received for each year during which it has been agreed or determined that there was an over-assessment and, therefore, an over-payment of taxes. The refund is in the amount of taxes that were “over-paid” based on the “reduced assessment.”

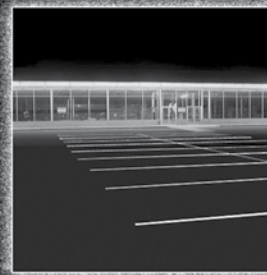
Because of the length of these proceedings and the re-

atives and Condominiums and the efforts of some legislators to eliminate these benefits.

Editor’s Note: The authors are attorneys with Finger and Finger, A Professional Corporation. The firm, based in White Plains, is Chief Counsel to The Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI).

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