



New York City real estate taxes bills are due in July: A minefield of surprises - by Peter Blond

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Peter Blond, Brandt,
Steinberg, Lewis & Blond LLP

I'm very familiar with my phone ringing continuously at this time of year because New York City real estate tax bills – due in July – are being received by property owners city-wide. Unlike any other year, however, New York City tax bills are jam-packed with errors. In particular, bills offer a minefield of surprises for condominiums and properties that receive exemption/abatement benefits. In some instances benefits were entirely excluded from the quarterly statement. My advice for over 20 years of practice has been “you must pay your tax bill as issued, or you will face interest and penalties.” Now, the city is actually instructing taxpayers to self-correct the bill and pay what should have been the appropriate amount! No telling where that self-help advice will lead, considering the department of finance’s new computer system has proven an utter failure. Lost credits, bounced New York City government checks and far less detail than existed before on the account history are just a few examples.

I recently attended a City Bar Association committee conference where we received a guided tour of the new system from a DOF representative. Almost every question from the audience was answered with “we’re working on that.” For property owners, managers and title companies that frequently utilized the old DOF on-line system it has also proven an exercise in futility. I would advise everyone to have their certiorari counsel review a suspect quarterly statement from DOF, or at least make certain appropriate adjustments are reflected, before paying the second half tax bill that is due in January for most properties.

The more thought-provoking phone calls and emails lately are due to the disturbing legislative changes and New York court decisions terrorizing residential property owners. At the center of the controversy are the recent changes to the rent laws passed by the New York state legislature. Many frantic clients called to see if their 2019/20 New York City tax commission protest hearings had already taken place, as the rent law changes corroborate a dramatic negative change in circumstances. As one well established property owner remarked “don’t they realize my building is automatically worth less right now?”

Counterintuitively, in New York City, the current arms-length market value of your property can

decrease while your actual assessment and corresponding taxes continue to rise. This phenomenon is caused by New York City's income and expense approach to value. Apartment buildings with 11 or more units (this includes commercial units) are assessed using the trailing calendar year performance of a property to determine value. While the property owner may very well be correct, inasmuch as his property is worth less on the open market, the legislative changes do nothing to the property's already recorded 2018 performance.

Moreover, any residential property that experienced flat to increased gross income from calendar 2017 to calendar 2018 will likely see an assessment increase rather than a decrease in January of 2020 (based on the RPIE-18 due by June 3, 2019); despite the subject property simultaneously experiencing diminution in value. Similarly damaging to residential landlords is the recent NY Court of Appeals decision that ruled 421-g buildings should have remained subject to rent stabilization in exchange for the real estate tax benefits received. In 2019, as has been the case for many years, residential real estate speculation is largely based on short term loans, improving the rent roll and then cashing out – via refinancing - on the increased “value” of the property to further leverage the portfolio. That model may have been deeply undermined, by these changes and verdict, as rapid rent roll improvement should prove nearly impossible if these legislative changes endure.

Lastly, many clients with retail space have called to report the potential loss of a tenant at year's end due to the continued negative retail climate. Not unlike their frustrated residential counterparts, retail landlords only look forward not back. The city assessor, however, will only look back at 2018 performance for now (again based on RPIE-18) and weigh vacancy if it was for a full year. Accordingly, anticipation of a potential tenant loss is not going to register on the city's radar based on the number of retail properties already in distress. As is always the case, if you are suffering from vacancy, collections, rent concessions or any other negative influence to value, you should immediately provide this information to your certiorari counsel to leverage your real estate tax protest.

Peter Blond, Esq. is a partner at Brandt, Steinberg, Lewis & Blond LLP and the immediate past chair of the NYC Bar committee on condemnation & tax certiorari, New York, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540