Any increase to assessed values to commercial properties will hamper the likelihood of securing new or better tenants - by Peter Blond

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Peter Blond

The New York City Department of Finance published the 2023/24 real estate tax assessment roll on January 17th. Per the city's press release, the aggregate taxable assessed value of all properties increased by a relatively modest 4.4%. Considering the persistently high inflation in the economy, these figures are perhaps less than anticipated. While New York City finance commissioner Preston Niblack stated that the city "continues to show mixed signs of growth and economic recovery," he noted "key commercial sectors still lag behind pre-pandemic levels." Office buildings and prime retail certainly lead that concern, along with pandemic pulverized hotels and theatres. It appears tax class one (typically 1, 2 or 3 family houses) may have to suddenly provide the lion's share of the city's fresh real estate tax revenue commencing July 1st of this year.

Most property owners experienced an assessment rollercoaster from 2021 to 2022, with city valuations plunging in 2021 and springing back to pre-pandemic levels–and beyond–last year. This year the aggregate city-wide assessed value for office buildings increased by 4.4% while retail rose at a slightly lower 4%. With many commercial properties still suffering from vacancies, any increase to assessed values and corresponding taxes will hamper the likelihood of securing new or better tenants. Despite continued rough seas, most landlords are unwilling to forego all overage clauses, in favor of occupancy over potential gross income. In other words, attracting potential tenants will be more difficult, with real estate taxes rising along with most utility and labor expenses locally.

Amplifying NYC's unclear and unjust methods are the mistakes, by the city assessor, which are seemingly mass-produced regardless of a property's size or use. Just today I received a call from a taxpayer with a newer building, enjoying a 421a abatement, yet the City DOF indicated the property had two stories instead of four since day one! Prompt review of your New York City annual Notice of Property Value (NOPV) is vital, because not identifying discrepancies ahead of March 1st equals no assessment protest. Property owners initially discover adverse changes when they receive their tax bill due July 1st or even later, such as when annual escrow statements arrive. Either way, if the discovery is after the March 1st protest deadline, the taxpayer may have no legal recourse.

The NOPV specifies your property's inventory (e.g., square footage, age and number of stories). For most properties, the NOPV also discloses the city's income and expense approach to value for your property. To improve transparency, the NOPV generally itemizes each financial aspect considered including gross income, expenses, net operating income (NOI), base cap rate and overall cap rate. NOPV's were mailed by the NYC Department of Finance in late January and are also available on NYC DOF's website. The release of the new assessments opened the 2023/24 real estate tax protest filing period, which closes–for most NYC properties–on March 1st, 2023.

Indiscriminately conceding to the city's valuation can prove a long-lived error. Increases to your actual assessment are phased in or amortized over a five-year period to your transitional assessment if based on economic changes. Accordingly, by failing to protest any large increase, you effectively ensure four more years of a rapidly rising bill. If the assessment increase was based on construction/alteration work, the tax increase will accelerate (no phase in) and rectifying the problem down the road may prove extremely difficult, if not unachievable.

Assessment increases based on purported construction/alteration work have become an increasing problem as city assessors continue to apply unwarranted changes. Even if work is completed on a property, it does not automatically translate to an appropriate assessment increase relative to the construction performed. In theory, as the city is valuing most properties on a rental basis, only work that enhances the potential rent for a space should result in a large permanent tax hike.

The problem is even spreading to properties that historically would not receive such increases. Cooperatives are receiving substantial assessment increases due to expensive gut renovations in individual apartments. In a cooperative setting, there is no way to determine from the tax assessment or bill which apartment caused the physical based increase. Accordingly, cooperatives are undoubtedly now paying for expensive alteration work performed by a neighbor in perpetuity. If you manage a cooperative, or are an officer of a cooperative board, this is a growing concern.

As always, all property tax assessments should receive annual review by a licensed professional before March 1st, unless padding NYC's fiscal crevasse is your goal.

Peter Blond, Esq. is a partner at Brandt, Steinberg, Lewis & Blond LLP, New York, N.Y.