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Many landlords are struggling to rationalize their increased tax bills relative to their reduced or stagnant pre-tax bottom lines - by Peter Blond

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While a clear majority of New Yorkers have reached their boiling point over the “no end in sight” migrant crisis, property owners are merely wondering when real estate taxes might at least mirror their declining collections and property values. With history and simple economics as a guide, it is unlikely the city can afford to reduce assessed values and corresponding real estate taxes and maintain services irrespective of the migrant crisis. Even though there are wide variances in performance, depending on the type of real estate, many commercial categories are still in distress and show little evidence of near-term improvement. Accordingly, many landlords are struggling to rationalize their increased tax bills relative to their reduced or stagnant pre-tax bottom lines.

As I have advised clients for many years, municipalities inevitably turn to their guaranteed cash cow in times of economic need. In New York City, real estate taxes have traditionally been a prized blue-ribbon herd of cattle. However, rising real estate taxes during a recessionary or distressed period is understandably counterintuitive to many property owners. Nonetheless, the mayor and city council recently demonstrated my proof of concept, as they worked in the shadows over the summer to potentially collect even more from city taxpayers. As everyone knows at this juncture, the migrant crisis is an enormous economic strain on the city’s finances. With the city committed to caring for the migrants and continuing all other services, the cash cows are about to be pushed to the edge. State laws, however, limit the city’s ability to increase tax rates over a certain amount or by focusing on certain types of property (also known as adjusting base proportions). Hence, this time the city council’s insatiable fiscal appetite required Albany’s legislative approval in order to potentially adjust the 2023/24 tax rates that were already approved by vote in the late spring.

The city requested and since Albany approved legislation empowers the city to go beyond previous statutory limits, as to real estate taxes for 2023/2024, so long as further increases are not more than 5% and the decision is made by November 1st, 2023. The city is also permitted to make these changes retroactive to tax bills that were due and likely paid back in early July (first half 2023/24 tax year). Imagine having paid your first half taxes back in July, believing they were X, only to open the envelope this November to learn your taxes are now substantially higher than you were billed a few months prior! Mind you this is while elected officials were mum on the subject whilst they awaited Albany and governor Hochul’s approval to potentially collect more tax. For a city council that is supposedly pro small business, this is also an unexpected burden on recovering and new businesses in the city that are obligated to pay a portion of the property’s real estate taxes pursuant to their lease.

Moreover, the originally approved 2023/24 tax rates suggested a 5.5% increase for tax class 2 primarily residential property, but a -6% year-over-year change for tax class 4 commercial property. It is anyone’s guess what the council’s final decision will be leading up to November, but obviously there could be quite a surprise to operating budgets this winter as July 2023 tax bills were printed using 2022/23 rates. This could mean a 10%+ tax rate increase for primarily residential class 2 properties. That would be a surprising move as there are many more voters impacted should they increase tax class 1 (1, 2 and 3 family homes) and/or class 2. More likely, it could mean class 4 commercial owners are about to have their -6% essentially go back to the “house.”

While nobody enjoys paying income taxes, they at least can be gauged. By contrast, one of the more frustrating elements of real estate tax valuation is the arbitrariness. For example, the city department of finance continues its massive build-up of data, that includes upwards of three annual online updates to report vacant space. Mind you, significant fines can be levied for failure to report the vacancy. Yet many properties experiencing vacancies had their estimated gross income and corresponding assessed value inflated despite reporting that information. If increasing tax rates and ignored vacancies aren’t enough, properties located near shelters have been exponentially impacted. In addition to the loss of top line revenue, there is the stigma influencing retention of tenants and attraction of new tenants. It certainly doesn’t appear the city council’s plans or DOF’s fancy new tools are meant to favor property owners paying the lion’s share of the city’s tabs.

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