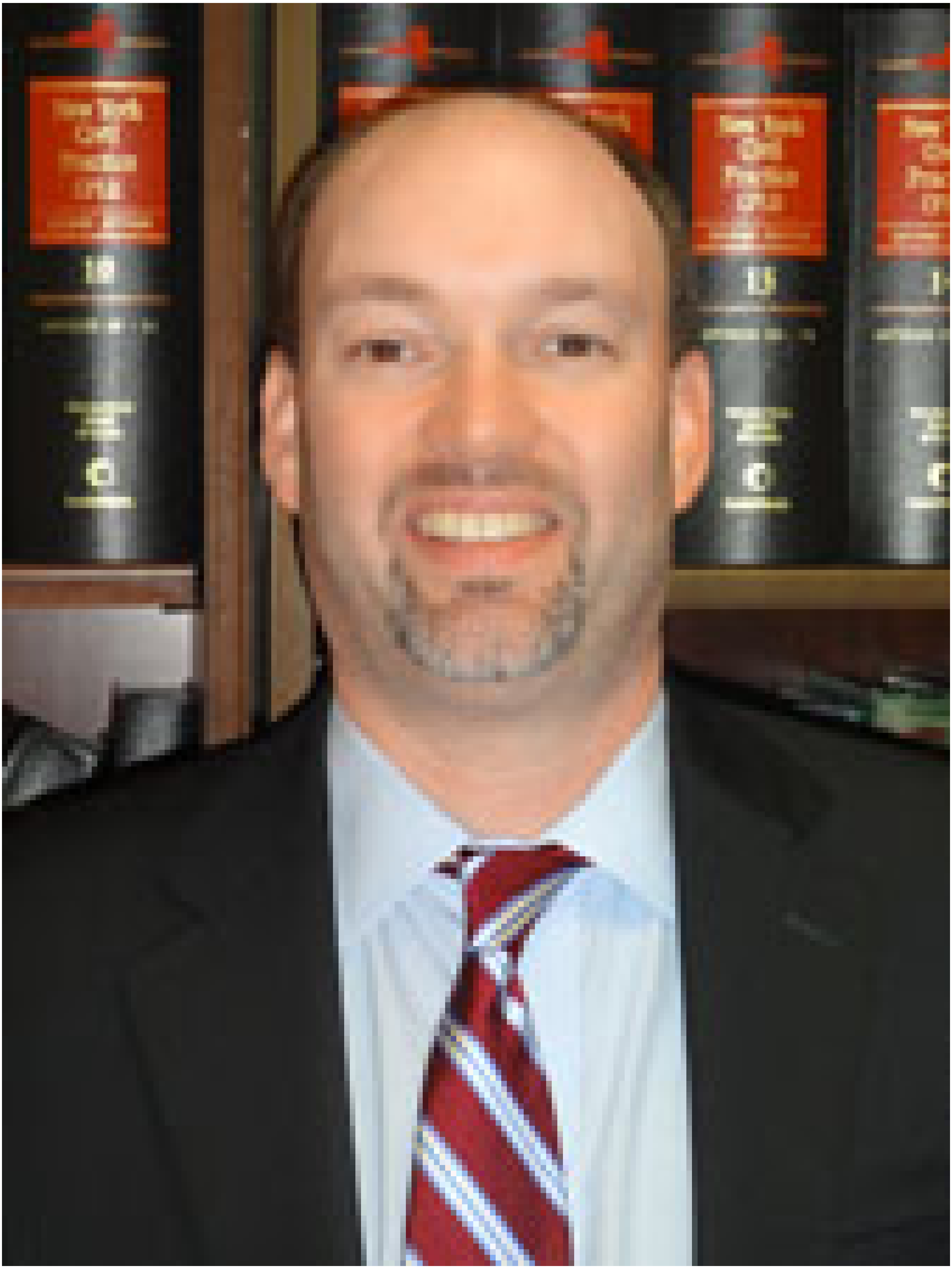
The question facing thousands of taxpayers now is whether to protest their 2024/25 assessed value - by Peter Blond

February 13, 2024 - Spotlights



Peter Blond

Another year has passed, and New York City has released another real estate tax assessment roll. For most taxpayers, it was an uneventful year-over-year change to the assessed value of their property. As I indicated in my article several months ago, the city possessed sufficient calendar 2022 income and expense data to increase the assessed values for most property types by the largest percentages since the pandemic. Obviously, 2020 and 2021 fiscal performance was poor due to the lockdowns and subsequent rules limiting the reopening for so many types of occupancy (restaurants, theatres, hotels, salons, etc.). The city has numerous alternative justifications to increase assessed values, considering the increased financial burdens caused by the migrant crisis as well as continued loss or stall in other tax revenue streams citywide.

The question facing thousands of taxpayers now is whether to protest their 2024/25 assessed value, especially if their assessment stayed flat or declined. This presumes, of course, that their prior assessed value was fair or appropriate. Accordingly, too many taxpayers make the mistake of presuming their new valuation must be fair considering it is equal to or lower than the prior year. While a stagnant or declining valuation is frequently fair reason for near term celebration, it does not automatically mean your assessment is appropriate for the upcoming tax year.

Property owners typically only compare their prior calendar year income and expense performance with the figures indicated on their annual notice of property value from the New York City Department of Finance and assume that justifies the resulting tax liability. While that can often be accurate, it leaves out many distinguishing opportunities if you properly file and fully delve into the case with your Tax Certiorari counsel.

For example, a property can have prior year gross income performance that sustains the new assessed value indicated by the Department of Finance, however, as of January 5th, 2024, the property is vacant in whole or in part. In New York City, January 5th each year is known as taxable status date. In theory, the property should be assessed for the upcoming tax year based on use, occupancy, condition, etc., not solely dependent on the rear-view mirror approach. By supplying rent rolls and narratives, via sworn statement, your counsel can take a novel yet appraisal worthy approach to value instead of relying only on the trailing 12-month report.

Similarly, there are times the city's system erroneously assigns a particular property with a 'flag' indicating the subject is triple net leased to a single tenant. The assessor's office can analyze triple net leased properties utilizing an unfriendly basis compared to more typical gross lease scenarios, whether it be one or multiple tenants involved. Inaccuracies of this sort can also unfortunately originate from mistaken responses on the prior year RPIE, storefront registry or rent roll requirements that have been plaguing property owners since the pandemic. If the assessed value is well past historical norms, a review of both your RPIE filing and TCIE filing may prove useful to spot such a mistake or omission.

As is the case in any tax year, filing a protest serves purposes beyond having a hired gun take a shot on your behalf. For example, for anyone operating in a fiduciary capacity, filing a protest provides evidence of exercising due diligence and endeavoring to make the venture as profitable as feasible. As always, it is advantageous to consult with your hired professional when making a “no turning back” decision to forego a real estate tax protest.

Unusually interesting New York City Tax Certiorari news, the New York City Tax Commission president, Frances Henn, announced her retirement effective February 1st, 2024. Taxpayers and practitioners certainly thank president Henn for her leadership, particularly through the pandemic. If the tax commission ceased operations during 2020 and 2021, many taxpayers would not have received critical relief on a timely basis.

Fortunately for the city and taxpayers, Neil Schaier, has been named acting president. Schaier was already at the tax commission following a storied career that started on the taxpayer side of certiorari and matriculated to leading the New York City Law Department, Offices of Corporation Counsel, Tax Certiorari Division, for many years. It is beneficial to city taxpayers to have a replacement of this caliber at the ready.

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