



**NYC agencies abandon mission statements, escalate anti-taxpayer policies amidst tax assessment controversy - by Peter Blond**

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While it is very upsetting news to publicize, two New York City agencies have abandoned their mission statements (psst, to correct real estate tax assessment errors). As a practitioner in the field and as a member of the New York City Bar Association, it is necessary to highlight just how anti-taxpayer these institutions have become. In my last article the New York City Department of Finance (DOF) had posted proposed rules to supercede their own rules promulgated by the very same agency in 2016. Former commissioner of finance Jacques Jiha introduced into law clear, and equitable taxpayer initiatives designed to correct city errors on real estate tax assessments where appropriate. While the program had its share of problems, by all accounts it was the city's best attempt at equity and fairness.

The newly "proposed" DOF rules were essentially adopted in whole with little lapse in time after the minimally required public comment period. Those rules substantially reduce taxpayer rights and arguably violate multiple New York State laws. It is only a matter of when these new DOF rules will be challenged in New York Supreme Court in one or more of the boroughs.

Interestingly, part of DOF's claim as to why the changes were instituted was to pass responsibility to the New York City Tax Commission (TC) as the administrative review agency already handling similar assessed value complaints. As soon as the DOF rules went into effect, current New York City Tax Appeals Tribunal president & commissioner Neil Schaier unilaterally announced sweeping changes to policies that have served New York City taxpayers relatively fairly for approximately 40 years! See a trend here?

For many years during my time serving the City Bar Association's Condemnation & Tax Certiorari Committee, including as chair, I worked with all sides of the aisle to pass unanimous city council legislation in 2019. Unanimous. Not something that comes along often in politics these days let alone NYC politics. The dated law in question required rental property owners contesting their assessed valuation of \$1 million or more to hire a CPA to certify the data provided to the TC. The threshold was decades old, and any inflation calculator indicated a substantial increase was necessary. Even former TC president Ellen Hoffman supported the threshold increase.

Based on our collective efforts along with the city council's again unanimous vote, the threshold for the accountant certification was raised from \$1 million to \$5 million. At no time has the TC applied either threshold to other than an individual block and lot. At no time during all the testimony or collective drafting of the city bar's proposal did anyone propose the aggregate assessment of multiple tax lots, filed on a "consolidated" financial reporting basis, would apply to the new threshold in TC rules moving forward.

Since New York City Administrative Code §11-216 was updated to \$5 million, the TC continued its long-standing policy that the threshold was only applicable to an aggregated or "consolidated" filing if there was at least one lot that met the threshold. Despite all the history, a seemingly unambiguous

statute that says “property,” not properties, or an aggregated filing, the TC is now saying otherwise! This unilateral wielding of power is about to destroy the cooperative effort by the bar association, the prior TC administration and the city council!!

In fact, I write this following the TC’s annual CLE that was held at New York Law School and attended by a great many practitioners totaling, in the aggregate, thousands of years of experience. When questioned both live at the CLE and afterwards by email – formal and informal – we received the following written response from the TC: “The TC recognizes that past policy of the TC has been to require a TC309 only when the single highest assessment on a consolidated filing exceeds \$5 million and the reported income exceeds \$100,000. As a practical matter, TC records indicate that approximately 1% of consolidated filings are likely to be impacted with an AV filing requirement calculated on an aggregated basis. The TC is also mindful that there may be an additional burden to a small number of property owners...” The TC went further indicating that the new policy would be enforced starting in 2026.

There is only one way to interpret the actions of the DOF & TC – harsh and anti-taxpayer. One agency (DOF) has excused itself from some of its important assessment responsibilities and the other (TC) is ignoring black letter law that was enacted with the assistance of the very agency now calling “backsies.” These same governmental agencies try to encourage taxpayers to represent themselves in this frightening environment where decades old policies are unilaterally swept away along with all taxpayer safeguards. For property owners that have yet to “lawyer-up,” the 2025/26 NYC tax protest period closes March 3rd, 2025.

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