

Tax Certiorari

New York City's first half of annual real estate taxes are due: Owners facing increases



Peter Blond
Brandt, Steinberg,
Lewis & Blond LLP

It's early summer in New York City and that means the first half of the annual real estate tax bill is due. Consequently, my phone and email are abuzz with frustrated clients that are facing increases from their 2016/17 liabilities. From a practical perspective, there is no choice – in any local municipality – but to pay the bill “as is.” Failure to heed that real estate tax commandment will automatically result in interest and penalties. The foregoing is true even if you filed a timely New York City tax commission real estate tax assessment protest by March 1st, 2017. After all, if the rules were otherwise, everyone would protest and nobody would pay timely.

Most properties which filed a timely 2017/18 New York City protest have yet to be heard. There were roughly 55,000 protests filed with the New York City Tax Commission this year. There are approximately 24 hearing officers, commissioners and the Tax Commission president, who review these protests and render

decisions. Moreover, the vast majority of these cases are only heard between May and October.

When you realize the limitations imposed by the aforementioned statistics you can better appreciate the need for preemptive communication with your tax certiorari attorney. All too often clients are responsive rather than proactive. For example, if my client loses an anchor tenant today, why wait to be asked about occupancy? The opportunity window, for a real estate tax assessment reduction, in New York City is small. Preparation is the key to improving the likelihood of a successful protest. Advance preparation, along with advance knowledge of changes in circumstance at a property, is pivotal.

News that negatively impacts your property value can have a silver lining in as much as it can strengthen your real estate tax protest. However, we do not learn of a distressed situation until we see a drop in gross income (year-over-year) the following year and then make an inquiry to the client as to the cause. By contemporaneously forwarding your attorney copies of tenant letters, updated rent rolls, new commercial leases and the like, you empower your counsel to incorporate the negative factors influencing value right away as opposed to a year after

the fact. Indeed, the passage of time can also negate the potential silver lining benefits the negative factor

It's early summer in New York City and that means the first half of the annual real estate tax bill is due. Consequently, my phone and email are abuzz with frustrated clients that are facing increases from their 2016/17 liabilities. From a practical perspective, there is no choice – in any local municipality – but to pay the bill “as is.”

created in the first place.

For example, you lost an important tenant on April 1st, 2017, but failed to notify your certiorari attorney. Your attorney presents an argument for a reduction at a Tax Commission hearing on July 1st, 2017, believing occupancy to be 100%, hence no mention of a distressed situation could be offered. On January 1st, 2018 you enter into a new lease for equal or greater rent than was being received from the prior tenant. Upon receipt of your 2017 income and expenses, your attorney should notice a drop in gross income (from the nine-month vacancy), thereby creating a question as to what transpired. While timely notice of the vacancy may have only supplied some sympathetic basis for temporary relief, it no longer provides

any value in the current example because the vacancy was brief and the landlord is back to where they

started, or better.

Similarly, in 2017, the Internet's bottomless information trove provides certiorari attorneys with more advance homework prerequisites. Websites like Google provide “street view” photos that are sometimes just weeks old. Municipal representatives are routinely screening real estate tax protests for inaccuracies by comparing the protest submitted to data available on the internet. For example, common trouble spots include roof-top income sources (cell tower/signage) that may not have been reported or at least separately reported so the income could be properly analyzed. Municipal agencies are also heavily utilizing websites like Street Easy to confirm reported or estimated residential rental rates both on an

apartment and per square foot basis.

Technology has provided a persistent fishing opportunity for taxpayer adversaries, which does not end with the aforementioned website searches. In fact, New York City Tax Commission personnel regularly review RPIE filing data in conjunction with Tax Commission submissions. Any inconsistencies can result in lost opportunity for a reduction and, without sufficient explanation, a note in the file requiring a future answer as to the circumstances.

It is important to stress that there are only so many things an attorney can “catch” without a proactive client. Photos are sometimes outdated and tenants, especially with rising retail vacancies locally, can vacate without notice. When in doubt, forward any information regarding vacancies, non-paying commercial tenants, eviction proceedings, damages requiring emergency repair work or any other large scale expenditures underway or contracted for as soon as possible to maximize its sometimes counter-intuitive value on the real estate tax front.

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



Brandt Steinberg Lewis & Blond LLP
Tax Certiorari Attorneys

CONTESTING REAL ESTATE TAX ASSESSMENTS SINCE 1932

Practice Areas
Real Estate Tax Appeals
Exemptions/Abatements
Condemnation
Opinion Letters
RPIE Disputes

1430 Broadway, 6th Floor
New York, NY 10018
Phone: 212 563-2200
Fax: 212 629-4272
brandt@bsl-taxcert.com
www.bsl-taxcert.com