

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF**

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In the Matter of

Petitioner,

-against-

THE TAX COMMISSION OF THE CITY OF NEW YORK
and THE COMMISSIONER OF FINANCE OF THE CITY
OF NEW YORK

Respondents.

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PETITION

Taxes of 2023-24

Block Lot Address

TO THE SUPREME COURT OF THE STATE OF NEW YORK

The Petitioner above named respectfully shows and alleges that:

1. At all times hereinafter mentioned, the petitioner was and still is the Owner of certain real property in the Borough of Manhattan, City of New York, which real property is described in Schedule A hereto annexed and made part of hereof, by block and lot number by which the said property was designated on the tax maps of the City of New York for the fiscal year July 1, 2023 to June 30, 2024.

2. During the time provided for by law, one of the assessors of the Property Division of the City of New York, an agency under the jurisdiction of the Commissioner of Finance, in accordance with law, did assess the said real property described in Schedule A and caused the assessed valuations to be entered in detail in the books kept in the office of said Property Division as shown in Schedule A.

3. Between January 15, 2023 and March 1, 2023, the time that said books were open for public inspection, or such further period as provided by law, petitioner, claiming to be aggrieved by said assessed valuation of said real property, duly made application in writing under oath to the Tax Commission of the City of New York, as provided by law to have such assessments corrected, said Tax Commission having been duly constituted by law, to review and correct all assessments of real property for taxation in the City of New York. In said application, petitioner claimed that the assessments were erroneous in that the assessments were excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality) and demanded appropriate relief.

4. Thereafter, on or about May 25, 2023, the Tax Commission duly rendered a final determination on said application, and the assessments were confirmed as final in the amounts shown in Schedule A hereof.

5. Thereafter, the assessment rolls of the real property subject to taxation in the City of New York for the fiscal year July 1, 2023 to June 30, 2024 were prepared, certified and delivered to the City Council of the City of New York in accordance with law, which assessment rolls contained the said assessments upon petitioner's said real property as shown in Schedule A and the City Council proceeded thereon for the levying and collection of taxes.

6. The said assessments are excessive in that (a) the assessed valuation exceeds the full value of the real property. The sum for which the said real property would sell under ordinary circumstances on the statutory taxable status date is shown as the claimed value in Column "5" of Schedule A. The extent of over-valuation is the actual total assessment specified for each tax lot (Column "4"), less the claimed correct full value specified for each tax lot as set forth in Column "5" of Schedule A; (b) the taxable assessed value fails to comply with the limitations of increases in assessed value set forth in Real Property Tax Law Section 1805; (c) said real property failed to receive all or a portion of an exemption to which said real property or the owner thereof is entitled pursuant to the law authorizing the exemption; and (d) the assessments are excessive in that the property failed to receive a land only "progress assessment" as a building in the course of construction pursuant to Administrative Code Section 11-209.

7. Where the subject property is fully or partially exempt from taxation under RPTL Section 489 and the Administrative Code of the City of New York, Section 11-243, the assessment has been unlawfully increased in excess of the assessment of the previous existing dwelling appearing on the assessment rolls after the taxable status date immediately preceding the commencement of the alteration and improvements plus the value of the land and any improvements, other than those made under the provisions of RPTL Section 489 and Administrative Code Section 11-243.

8. The said assessments are erroneous by reason of inequality and are unequal in that they have been made at a higher proportionate valuation than the assessed valuations of (a) other real property on the assessment rolls of the City for the same year, and/or (b) other real property within the same class on the same roll by the same officer. The extent of such inequality and the extent to which said assessments are unequal is equal to the difference between the actual total assessed value as set forth in Schedule A and 15% of the amount specified as the claimed value for each unit set forth in Schedule A.

9. RPTL Section 720(3) is unlawful, improper and unconstitutional in that it improperly limits the scope of evidence to be adduced by petitioner.

10. The assessments are illegal and unlawful in that they were made contrary to law.

11. The assessments are illegal and unlawful in that the property should have been wholly exempt from taxation.

12. Where a notice increasing the assessments of the subject property was sent during or subsequent to the time the books of the annual record of assessed valuation remained open for public inspection, the notice purporting to increase the assessments is unlawful, improper, defective and void in that it fails to comply with New York City Charter Section 1512 and Administrative Code Section 11-211; Charter Section 1512 is unlawful, improper and unconstitutional in that it discriminates in favor of residential versus commercial property and fails to provide adequate notice of an increased assessment, and unconstitutionally vague in that it fails to adequately define what is meant by residential real estate.

13. At all times herein relevant, the Constitution of the State of New York, Article 8, Section 10, provides that real estate tax revenues of the City of New York in any fiscal year, exclusive of debt service requirements, shall not exceed 2-1/2% of the average full value of its taxable real estate for the latest five fiscal years. That by discriminating between types of properties, respondents have reduced the value of "taxable" real estate so that the tax rate exceeds the constitutional limitations by reason of their having effectively granted exemptions from taxation to certain premises.

14. Where petitioner's property is a cooperative or condominium, the assessment has been made contrary to RPTL Section 581 and/or RPL Sec. 339-y.

15. These assessments and all of the assessments on the assessment rolls of the City of New York are illegal and unlawful in that Section 305(2) of the Real Property Tax law requires that all real property in each assessing unit shall be assessed at a uniform percentage of value and that the assessments on said roll are not assessed at such uniform percentage.

16. Where the assessment of the subject parcel has been set based on 45% of gross sales price, the assessment is unlawful in that parcels whose assessment is based on 45% of gross sales price constitute an unlawful and separate class of real property which is not assessed at a uniform percentage of value required by RPTL Section 305(2) and which class is not authorized by RPTL Section 1802 or the New York State and United States Constitutions.

17. The assessments are illegal and unlawful in that respondents have wrongfully denied a hearing to correct the assessment in question pursuant to Administrative Code, Section 11-208.1 that is unconstitutional, on its face and as applied herein.

18. Petitioner's property has been misclassified as being in class two, three or four instead of the appropriate class for petitioner's property; the class designation of petitioner's parcel results in an incorrect allocation of the parcel's assessed valuation between two or more classes; the criteria used by respondents for determination of tax class is arbitrary, capricious and unlawful.

19. The denial of the full and appropriate amount of exemption under RPTL Section 421-A or any applicable statute granting exemption to the subject property is arbitrary, capricious, contrary to law and makes the assessment unequal, unlawful and excessive.

20. By reason of the aforesaid excessive, unequal, erroneous, unlawful and illegal assessments, petitioner has been aggrieved and will be injured thereby, and will be compelled to pay more than its proper share of the taxes of the City of New York.

21. Reference herein to "petitioner" shall be deemed to include the petitioner named herein and all of said petitioner's predecessors in interest.

22. The property's transition assessments are excessive in that they have been (a) calculated in a manner inconsistent with the provisions of Real Property Tax Law, and/or (b) calculated in a manner inconsistent with the transitional assessment calculation for other properties in the City of New York.

23. No previous application has been made for the relief herein sought to this or any other Court or Judge.

WHEREFORE, your petitioner prays that the Supreme Court review and correct on the merits the aforementioned final determination of the Tax Commission on the grounds set forth in this petition, and that the Court take evidence to enable your petitioner to show the unjust, erroneous, illegal, unlawful, excessive and unequal assessments of said real property and its misclassification to the end that the said assessments may be reduced to the sum for which the said property would sell under ordinary circumstances for land and improvements, and to a valuation proportionate to the assessments of other real property assessed on the same rolls and/or other real property of the same class assessed on the same rolls, for the same year, so that equality of assessments will result, and that all properties shall be assessed at a uniform percentage so that said assessments will not be unequal, and that equality of assessments will result, and so that the assessments not be contrary to law, and so that any excessive transition assessments for current and subsequent tax years be reduced in accordance with law, and for such other and further relief as the Court may deem proper, together with costs.