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REAL PROPERTY / TAX CERTIORARI

**Getting to the Courthouse:
A Primer on the Procedure of Challenging Real Property Tax Assessments**
By Jacob F. Lamme, Esq.

"My property taxes are too high! You have to do something." Every January and September, after tax bills are issued, thousands of clients call upon their counsel to "do something" about their high taxes. Most young lawyers do not have the slightest idea where to begin or what to do. This primer is aimed to provide attorneys with a basic overview of how to navigate the tricky path towards judicial review of a real property tax assessment.

Articles 5 and 7 of the Real Property Tax Law govern tax assessment challenges in New York State. The statutory requirements are very specific, and the slightest variation on your part could result in the prohibition of judicial review of your client's real property tax assessment.

There are several key dates to remember as you go through the tax certiorari process:

Valuation Date:	July 1st of the previous year
Taxable Status Date:	March 1st
Tentative Roll:	May 1st
Grievance Day:	4th Tuesday in May
Final Roll:	July 1st

Importantly, these dates may vary from town to town, so you are encouraged to verify them with the municipality in which your client's property is located.

By March 1st of each year, the local assessor compiles an inventory of all parcels of real property in his or her jurisdiction. (N.Y. RPTL § 502). Then, the assessor assesses the value of each property in his or her jurisdiction as of the valuation date (i.e., the previous July 1st), and compiles a list of properties and their respective assessed values, known as the "tentative roll", by May 1st. (N.Y. RPTL § 506). The tentative roll is then made available to the public at the municipality's offices or, sometimes, on its website. (Id.).

Encourage your client to inspect the tentative roll promptly after May 1st. If your client is unhappy with the tentative assessment of his or her property, you then have a short window of a few weeks, until "Grievance Day", to file an administrative complaint with the assessor claiming that the assessment is excessive, unequal or unlawful. (N.Y. RPTL § 524). The complaint form can be found on the NYS Office of Real Property Services' website (http://www.orps.state.ny.us/ref/forms/pdf_fillin/rp524_fillin.pdf). I cannot stress enough the importance of the administrative complaint. *If the administrative complaint is not filed before Grievance Day, you are precluded from challenging the assessment in court!*

Beginning on Grievance Day, the municipality's board of assessment review ("BAR") will hear the administrative complaints. The BAR may require a personal appearance at a hearing regarding the administrative complaint. (N.Y. RPTL § 525). Following Grievance Day, the BAR will decide the administrative complaint and direct the assessor to make changes to the assessment, if necessary. (Id.).

Following Grievance Day, the assessor will complete the final roll on or before July 1st. (N.Y. RPTL § 516). The assessments contained in the final roll will be used to calculate each property owner's share of the local tax liability for the following year (i.e., school taxes in September and local taxes in January).

If your client is unhappy with the final assessment of his or her property, you then have 30 days from the filing of

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the final roll to commence a special proceeding for judicial review of the assessment in supreme court. (N.Y. RPTL § 702). *Failure to file within 30 days will forever bar you from challenging the final assessment!*

Once the special proceeding is filed, you must serve five (5) copies of the Notice of Petition and Petition: three (3) upon the municipality, and one (1) each upon the superintendent of schools in the school district and the treasurer of the county in which your client's property is located. Moreover, an affidavit of service must be filed with the court within ten (10) days. (N.Y. RPTL § 708). *Failure to follow these service rules will result in the dismissal of the proceeding!*

Don't expect too much action on the part of the municipality after the proceeding is commenced because if an answer to your Petition is not filed, the allegations are automatically deemed denied. (N.Y. RPTL §§ 712, 714). It is normally up to you to push the proceeding forward.

As you can see, there are a lot of hoops for you to jump through before you can file an action to challenge your client's real property tax assessment. This primer should get you into the courthouse – the rest is up to you!

Practice Tips

Learn how to read the tentative and final tax rolls. The assessed value does not equal the true market value of your client's property. Only by applying an equalization rate to the assessed value will you be able to determine the full market assessed value of your client's property. For more information about equalization rates, visit the NYS Office of Real Property Services' website (http://www.orps.state.ny.us/pamphlet/under_eqrates.htm).

Have an appraisal of your client's property on your desk by early spring, and be prepared to share it with the assessor. Local assessors are swamped in May after the tentative roll is filed, but are often readily available to meet with you informally in March and April prior to the completion of the tentative roll. This is prime time for you to secure a significant assessment reduction for your client without having to go through the administrative grievance process or file a special proceeding for judicial review. If you miss the opportunity to challenge this year's real property tax assessments, go ahead and get an appraisal anyway. You'll be way ahead of the game next spring.

Don't file a special proceeding in supreme court unless you have an appraisal in hand or you are convinced that the final assessment is exorbitantly high. Too often attorneys file for judicial review without first having proof of their client's property value, only to later find out that the tax savings achieved after judicial reduction of the assessment were not great enough to justify the costs of litigation.

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