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TAX CERTIORARI AND CONDEMNATION

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Nassau County Reassessment on Schedule

Nassau County's new County Executive, Thomas Suozzi, is continuing his efforts to reform the county's assessment and tax certiorari systems, which have contributed to its near bankruptcy. Approximately \$120 million per year is refunded to Nassau County taxpayers who succeed in winning reductions in real property tax assessments.

To his credit, Mr. Suozzi quickly recognized that he must put the assessment and tax certiorari system in order so that Nassau County can work its way out of its financial mess. In so doing, Mr. Suozzi is building on the pending 2003 countywide reassessment of all residential and commercial properties. The residential reassessment is the result of the 2000 state court settlement in *Coleman v. O'Shea*, a Fair Housing Act case based on the disparate racial impact of the county's practice of assessing homes on 1938 construction costs. The prior Gulotta administration voluntarily agreed to reassess commercial properties at the same time it stipulated to end the *Coleman* case with a residential reassessment. The last commercial reassessment in 1986 was poorly executed, it is conceded, mainly because it was done by a national company without local input.

A successful Nassau County reassessment will probably have consequences for Suffolk and Westchester counties. Most of the rest of the state, including New York City, has successfully reassessed in the past 20 years with virtually none of the conse-



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quences of which local politicians were so fearful. The Office of Real Property Services, the state agency charged with overseeing assessment activities, is hoping to use a successful Nassau County reassessment to either entice or coerce those downstate municipalities that have resisted reassessment for the past 20 years to undertake their own reassessments

Goals of Reassessment

The reassessment is right on target to be completed by the Jan. 2, 2003, publication date for the 2003/04 assessment roll. Impact notices setting forth the new market value, new assessment and estimated new taxes for each property are being sent to residential property owners from early July to the end of September. Commercial property owners will receive their impact notices about Sept. 1, 2002.

The Suozzi reforms have two major goals:

- The transfer of the major responsibility to settle tax certiorari cases to the Assessment Review Commission (ARC), instead of the County

Attorney's office.

- The extension of the period between the publication of the tentative assessment roll and final assessment roll from three to 15 months, to allow enough time to correct the proposed assessments before the assessment roll is finalized and tax bills issued.

Legislation to accomplish these goals has been passed by the State Legislature and is awaiting the expected signature of Governor Pataki.

The extension of the period between the publication of the tentative and final assessment rolls - to be the longest in New York state - is designed to partially cope with the county's most serious problem. County taxes are only 15 to 20 percent of the total taxes paid by a property on the basis of the county assessment roll. The remainder are town and school taxes. But - and it is a big but - the county must pay refunds on town and school taxes as well as county taxes. The county thus pays about 80 percent of the \$120 million of its annual tax refunds for taxes it has never collected. It is hoped that the extension will provide ARC with a sufficient period of time to correct assessment errors on a time schedule that will turn tax refunds into tax savings.

Role of ARC

ARC presently has jurisdiction to settle appeals for the current year

pending before it plus the two prior years, and thus already operates on a year-round basis. (Nevertheless, a judicial petition must be served and filed within 30 days after the assessment roll becomes final in order to preserve the right to a reduction in assessment). The new legislation extends this period of jurisdiction to all years at issue. This extension sunsets when the Nassau County Interim Financing Authority no longer has authority to issue bonds for the financing of tax refunds pursuant to §656 of the Public Authorities Law.

ARC has been reorganized with an entire new set of commissioners and is in the midst of hiring an appraisal staff which it never had before and computerizing for the first time. Chairperson Glenn Borin advises that hearings will resume in late summer. The plan is that the County Attorney's office will only handle cases that cannot be settled at the ARC level or must be tried. Up to now, ARC has played a very minor role in reviewing commercial assessment.

A bare bones grievance application is presently all that is required under the Real Property Tax Law for ARC jurisdiction. Beginning in 2003, applications must be on forms prescribed by ARC and will require specific financial, lease and other information to be prescribed by as of yet unwritten ARC rules. All such forms must be available at least 90 days prior to the Jan. 2 publication of the tentative assessment roll.

This will eliminate the New York City problem where new forms are often generated just days before the tentative City roll is published, thus plaguing tax certiorari attorneys who must reset their computer systems and obtain unanticipated new information from clients. Unlike the City, where most defects result in a summary refusal by the Tax Commission to hold a hearing and a confirmation of the assessment, ARC is required to provide notice of defects to the applicant's attorney who shall have a 35-day period to cure the defect.

Failure to cure the defect will not

Nassau County Assessment and Tax Certiorari Review Dates

	Currant Law.*	No Change	Transition	Permanent
Tax Status Date	Jan. 2, 2002	Jan.2, 2003	Jan.2, 2003	Jan. 2, 2004
Tentative Roll	Jan. 2, 2002	Jan. 2, 2003	Jan.2, 2003	Jan. 2, 2004
Grievances Due	March 1, 2002	March 1, 2003	March 1, 2003**	March 1, 2004
Final Roll	April 1, 2002	April 1, 2003	April 1, 2004	April 1, 2005
Petitions Due	April 30,2002	April 30, 2003	April 30,2004	April 30, 2005
School Tax Bills	Oct. 1, 2002	Oct. 1, 2003	Oct. 1, 2004	Oct. 1, 2005
	(2002/03 Taxes)	(2003/04 Taxes)	2004/05 Taxes)	2005/06 Taxes)
County & Town Tax Bills	Jan. 1, 2003	Jan. 1, 2004	Jan. 1, 2005	Jan. 1, 2006
	(2003 Taxes)	(2004 Taxes)	(2005 Taxes)	(2006 Taxes)

*Although various aspects of assessment and tax certiorari practice will change for the 2003/04 tax year, the sequence of dates remains the same as under current law.

**Except for changed assessments arising from changed circumstances.

necessarily result in a denial of judicial relief since such denial will still be subject to the "willful neglect or refusal to attend" provision of §525(2)(a) of the Real Property Tax Law and the standards enunciated in case law. ARC also presently intends to provide a second notice period before issuing a dismissal notice which might result in-denial of judicial relief.

At present, the tentative assessment roll is published on Jan. 2 with the final roll published on April 1 of the same year. The legislation now provides that the final roll will be published on April 1 of the next year. This requires that, for the first year, two years of county, town and school taxes be collected on the same assessments and that, certain transitory provisions are required. The current, transitory and permanent dates are so complicated that they are best explained by the chart accompanying this article.

No other municipality-in the state has such a long gap between the tax status date and the levy of taxes.

Changes in Assessment

The legislation includes provisions for the 2004 assessment roll (having a Jan. 2, 2003, tax status date) to pick up new construction, demolition and exemptions for 2005 county and town taxes and 2004/05 school taxes. (Similar provisions provide for the

same situation occurring in later years). Notice of such changes in assessment will be sent to property owners who will be able to protest their changed assessments: for the 2004 roll.

The 2003 protest will not apply to the changed 2004 assessments. For other properties, the January 2003 protest will suffice for protesting the 2004 assessment roll. (However, separate judicial petitions must be filed for the 2003 and 2004 final assessment rolls). If the property does not have conditions necessitating changes in assessments, any ARC decreases in the 2003 roll will also apply to the 2004 roll.

Notwithstanding the legislative changes discussed here, Nassau County will not make headway in solving the fiscal problems arising from its assessment and tax certiorari systems unless its 2003 reassessment is a success. Future problem solving will also depend on periodic updates of the 2003 reassessment. Without such updates, the county will sooner or later have similar fiscal problems as those resulting from the poorly executed 1986 reassessment.

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