

NYC LAUNCHES ANNUAL STOREFRONT REGISTRATION REQUIREMENT



By Steven Tishco, Esq., partner, and Greg Papeika, Esq., associate at Ditchik & Ditchik PLLC

*Steven Tishco, Esq.
Greg Papeika, Esq.
Ditchik & Ditchik PLLC
370 Lexington Avenue, Suite 1611
New York, NY 10017
steve@ditchik.com
greg@ditchik.com
(212) 661-6400*

It seems that 2019 was a banner year for new regulations on New York real estate owners at both the state and city levels. Ensnares in the regulatory mix beginning in 2020 are owners of New York City buildings in all tax classes containing ground- and/or second-floor commercial space, commonly referred to as “storefronts.”

Under a new Local Law, property owners are required to register such spaces on an annual (and supplemental) basis as part of the Real Property Income and Expense (RPIE) filing due June 1 each year to the NYC Department of Finance (DOF). This includes owners who may otherwise be exempt from filing a statement of income and expenses but who will now be required to report certain information to the city regarding ground- and second-floor commercial space, regardless of whether such space is occupied. Property owners may be surprised at the potentially sensitive information that must now be reported and the harshness of the penalties that will be imposed for failure to do so.

The new law is somewhat vague as to what qualifies as a commercial space that must be reported. The law’s requirement for reporting a premises that is or could be used for the purpose of “selling goods at retail” potentially encompasses the entirety of the first and second floors of any building located in an area

zoned for retail use. The Storefront Registry User Guide recently issued by DOF (available online) and the online RPIE portal seem to think that only pre-existing units, divided and designated for commercial use by a building’s owner, will be included.

Properties in Tax Classes 2 (larger multifamily buildings including rentals, condos and co-ops) and 4 (commercial) must report the following for the preceding calendar year:

- Number of ground- and second-floor commercial units on the premises
- Square footage of each unit (including pro rata share of common areas)
- Occupant type: owner, tenant or vacant
- Start and end dates for each occupant (the entire 12-month period must be covered. If there were multiple tenancies and/or vacancies, each partial period from January 1st to December 31st must be listed.)
- Contact information and “primary business activity” of each occupant
- Average monthly rent (calculated by taking the total rent charged during the reporting period and dividing by the number of months the premises were leased)
- Rentable square footage
- Any lease concessions, including: number of months free rent, dollar amount of reduced or abated rent and dollar amount of tenant improvement or cash allowances
- Whether or not the tenant’s rent is sched-

uled to increase this year

- Whether the lease provides for scheduled rent increases after this year
- If a space is vacant, the average per-square-foot monthly rent under the most recent lease and any construction or alteration during the vacant period. Department of Buildings job numbers must be provided.

Owners of mixed-use properties in Tax Class 1 (one-, two-, and three-family properties) located in commercially-zoned areas must provide a limited subset of the above.

The annual penalties for failure to file required Storefront Registry information begin at as much as 3% of assessed value and rise to 5% of assessed value for each subsequent year in which the owner fails to file such information. Such penalties will appear on a property’s tax bill, accrue interest if unpaid and constitute a lien on the real property subject to tax lien sale or foreclosure.

Additionally, owners must file supplemental registrations for changes in tenancies occurring between January 1st and June 30th of the current year and upon change in ownership of the property. Finally, the law requires that a filing fee accompany the Storefront Registration — as of publication, DOF has yet to provide the amount of this fee or process by which it will be collected.