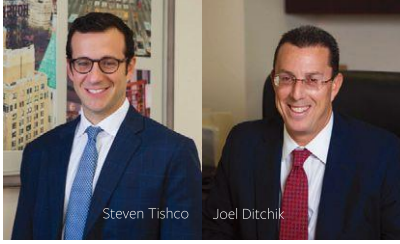


CITY PUBLISHES ITS FIRST POST-PANDEMIC PROPERTY TAX ASSESSMENT ROLL

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On January 15, the New York City Department of Finance, as it does every year, published its tentative property tax assessment roll valuing all real estate in New York City. This was one of the most anticipated assessment rolls in recent memory, as it is the first to reflect the decline in real estate values following the COVID-19 pandemic. The final assessment roll will be published on May 25 and will affect property taxes due for the city's next fiscal year (July 1 – June 30, 2022). Last year's roll, based on a statutory taxable status date of January 5, 2020, was a pre-pandemic assessment.

Overall, the assessments reflect a decline in real estate values, although most owners would argue (and, in fact, will argue in forthcoming administrative appeals and litigation) that the decreases do not sufficiently reflect the drop in market value that real estate in New York City has experienced because of the pandemic. The tentative assessment roll reports values of office buildings down by an average of about 15% (compared with last year's final assessment roll) and between about 20% and 25% for retail and hotels. Residential co-ops and rental properties saw their average value decreased by approximately 10%, while residential condos saw an average decline of about 75%. These are just averages; we have seen some values decreased by more, many by less and still others not decreased at all. Careful scrutiny by a property owner or its counsel should be brought to

bear quickly on these new values.

Of course, given the city's own fiscal crisis, it is likely that the city will raise tax rates in an effort to counterbalance the decrease in values and thereby enable it to collect the same amount in property taxes that it typically does (or as close to it as possible). Arcane and complex rules govern the city's ability to set higher tax rates and to reallocate the burden among the four classes of property, but we anticipate that, in light of budget constraints, the City will seek to increase tax rates across all classes. The amount of any tax rate increases will, in turn, depend on how much aid the state and federal governments pass along to the City, and whether the City will attempt to reduce its spending.

Taxpayers have until March 1 to appeal the Department of Finance's valuations to the New York City Tax Commission, the city's administrative agency tasked with hearing these appeals in the first instance. Hearings typically begin at that agency in April and continue through the end of the year, sometimes even into the following calendar year. For those matters that are not resolved at the Tax Commission, taxpayers can commence litigation in State Supreme Court, if they wish to continue their pursuit of assessment relief. The City's Law Department defends assessment challenges in court, and the litigation process, not unlike other types of litigation, often takes many years to resolve.

It is expected that the administrative appeals and litigation with respect to these assessments will be highly contentious. The city typically values most commercial and multi-family residential properties using an income capitalization approach, whereby after reviewing the market and adjusting a specific property's prior year performance, it estimates a net operating income (NOI) before taxes and applies a capitalization rate to that NOI to arrive at a value.

However, in calendar 2020, many properties across all asset classes saw extremely low NOIs, with some classes, such as hotels and retail properties, reporting negative NOIs. Although it is important to note that the property tax is not an income tax (it is an *ad valorem* tax, meaning a tax on the value of the real property), taxpayers have every right to expect the city's valuations to reflect the decrease.

Taxpayers should consult with their property tax counsel to ensure that all steps are taken to aggressively challenge these values where appropriate, as the actual declines in market value coupled with the dire short-term outlook for New York City real estate warrant in many cases substantial additional downward adjustment to the City's tentative values. Faced with likely increases in the tax rate, challenging and reducing DOF's values is likely to be the only means by which taxpayers can see additional property tax relief.