

Veneruso, Curto, Schwartz & Curto, LLP

Co-op & Condo Newsletter

FALL 2013

**SPECIAL INTEREST
EDITION:
TAX CERTIORARI
MATTERS**

We are pleased to present to our valued clients and associated real estate professionals our Fall 2013 Newsletter. We welcome any comments or suggestions that you may have. We hope you find the information helpful. Thank you!

Revaluation and the Homestead Tax Option by William E. Sulzer, Esq.

Revaluation (the review/revision of assessments for property tax purposes) is currently being considered by approximately nine communities in Westchester County. The only municipalities in Westchester which currently perform annual revaluation are the Town of Pelham, Town of Rye, Village of Bronxville and Town of Mamaroneck. The Village of Scarsdale is now conducting a Village-wide revaluation and it is anticipated that the revaluation will be complete and the new assessments will be published on the June 1, 2014 Scarsdale assessment roll. Most communities in Westchester have not performed a revaluation in many decades and this has caused significant inequities to exist on the assessment rolls.

It has been reported that the Town/Village of Mount Kisco, the Town of North Salem, the Town of Ossining, the Town of New Castle, the Town of Greenburgh, the Village of Pleasantville, the City of Mount Vernon, the City of Peekskill and the City of Yonkers are all currently considering revaluation. The intended purpose of revaluation is to achieve correct and fair

assessments for all taxpayers and to curb the abundance of tax appeals which are filed annually. However, a revaluation has the potential to greatly affect the tax burden for cooperative and condominium properties in these communities.

Taxing jurisdictions that conduct revaluations and become an "approved assessing unit" have the ability to adopt the "Homestead Option" (NYS Real Property Tax Law Article 19). According to the New York State Division of Taxation and Finance, the Homestead Option is a "local option to establish two separate property tax rates"; one rate for residential property owners (which pay the lower Homestead tax rate) and another rate for all other property owners (who pay the higher Non-Homestead tax rate).

In the past, one of the reasons many jurisdictions have been reluctant to perform revaluation is because they feared that homeowners would bear a much larger share of the tax burden post-revaluation. This is because residential properties have often been assessed at a lower

percentage of value as compared to other types of properties. Homestead legislation was enacted specifically to prevent the shift in the tax burden to the residential class and to encourage the revaluation process.

Under the Homestead Option, the tax rate is based upon the share of the taxes paid by the residential class in the year before the revaluation is implemented. When the Homestead Option is adopted, the taxing jurisdiction establishes two separate classes of property which pay taxes based on different tax rates. There is a Homestead tax rate (which applies, for the most part, to one, two and three family homes and condominiums which were built as condominiums – not converted properties) and a Non-Homestead tax rate (for cooperatives, converted condominiums and commercial properties).

However, in preventing the shift in the tax burden, the result is that the Homestead tax rate is lower than the Non-Homestead tax rate. By way of illustration, let's assume that in the year prior to the revaluation the residential class is paying 70% of the taxes and the non-residential class is paying 30%

Homestead Tax
Option:

Why
Cooperatives and
Condominiums
should be
concerned.

Filing
Deadlines

REVALUATION AND THE HOMESTEAD TAX OPTION

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If the Homestead Option is enacted in any of the communities considering revaluation, the assessors would no longer be restricted in the manner in which they can value as-built condominiums and the assessors would be able to value the units based on comparable sales.

of the taxes. Let's also assume that when the revaluation process is complete, it is determined that the residential class actually should be paying 80% of the taxes and the non-residential class should only pay 20% of the taxes. Under Homestead, the class share from the previous year is frozen and the non-residential class will continue to pay 30% of the taxes even though they comprise 20% of the value. This means the Non-Homestead class (which includes all cooperatives and converted condominiums) will be taxed at a higher tax rate than the Homestead class. This could cause the tax burden for these Non-Homestead properties to increase significantly.

The only towns in Westchester which currently use the Homestead Option are the Town of Rye and the Town of Pelham (the Village of Sleepy Hollow also uses the Homestead Option, however, it applies only to the Village taxes which are approximately 25% of each property's tax burden for Village properties). In the Rye Brook section of Rye, the Non-Homestead tax rate is 43.56% higher than the Homestead tax rate. In the Village of Port Chester section of Rye, the Non-Homestead tax rate is 21.81% higher than the Homestead tax rate. In the Village of Pelham section of Pelham, the Non-Homestead tax rate is 30.81% higher than the Homestead tax rate. In the Village of Pelham Manor section of Pelham, the Non-Homestead tax rate is 31.87% higher than the Homestead tax rate. This disparity in the tax rates is em-

blematic of the consequences of Homestead.

However, when the Village of Bronxville and the Town of Mamaroneck undertook revaluation, there was considerable local opposition to the Homestead tax option by the cooperative owners and condominium owners (In Bronxville, where the Village assessments are used to determine the School tax bills, cooperative apartments comprise a very substantial portion of the housing units). Possibly as a result of this opposition, these communities opted not to adopt the Homestead Option when the revaluation process was complete. Accordingly, all property owners are presently subject to the same tax rates, regardless of the type of property.

The type of properties which would be most severely affected by the Homestead option is "as built" condominiums, as opposed to condominiums which were originally built as a rental buildings and then converted to condominium ownership. Presently, all condominiums and cooperatives in the Non-Homestead communities in Westchester are valued based on an "income approach to value", as opposed to being valued based on comparable sales of individual units. This requirement is set forth by state law which mandates that assessors value cooperative and condominium properties as though they were rental apartment complexes. This law causes the tax burden for cooperatives and condominiums to be significantly lower than if the property was valued based upon a sales or market approach (the methodology used for single-family homes).

If the Homestead Option is enacted in any of the communities considering revaluation, the assessors would no longer be restricted in the manner in which they can value as-built condominiums and the assessors would be able to value the units based on comparable sales. This change in the methodology of how they are valued would drastically increase the tax burden for these owners. This could affect the marketability of these units since similar "as-built" condominium units in other non-revaluation communities would still be valued based on the income approach and, therefore, would have a much lower tax burden.

In summary, if the Homestead Option is adopted in any of these locales, cooperatives and converted condominiums will pay taxes based on the Non-Homestead tax rate which is likely to be higher. Furthermore, "as-built" condominiums will pay taxes based on the Homestead tax rate but the assessments for as-built condominiums will be based on sales as opposed to rental rates which will likely cause the tax burden for the properties to increase quite significantly.

Thus, it is important for the boards and management companies of complexes in these communities to stay informed, remain vigilant and express their concerns in a unified front to the governing bodies before the decision on Homestead is made.

FILING DATES FOR TAX CERTIORARI PROCEEDINGS IN THE NINTH JUDICIAL DISTRICT

The Table below sets forth the filing dates for tax certiorari proceedings commenced in the Ninth Judicial District (Westchester, Orange, Rockland, Putnam, and Dutchess Counties).

Please note, these dates represent the filing deadlines as of the date of this Newsletter. These dates remain subject to change and must therefore be verified prior to filing. All references to “Village” set forth below refer to all assessing villages located within the Judicial District.

January 2	White Plains tentative assessment roll opens. File protests by January 21 st .
February 1	Village tentative assessment rolls open. File protests by the <u>third</u> Tuesday in February.
March 1	White Plains final roll filed. File petitions for protests filed in January within 30 days.
April 1	Village final rolls filed. File petitions for protests filed in February within 30 days.
April 10	Yonkers final roll filed. File petitions for protests filed in November within 30 days.
May 1	Tentative assessment rolls open in towns and cities outside of Westchester County (Orange, Rockland, Dutchess and Putnam). File protests by the fourth Tuesday in May.
June 1	Tentative assessment rolls open in towns and cities in Westchester County (except Yonkers, White Plains). File protests by the third Tuesday in June.
July 1	Final rolls filed in towns and cities outside of Westchester County (Orange, Rockland, Dutchess and Putnam). File petitions for protests filed in May within 30 days.
August 1	Final rolls filed in cities of New Rochelle, Mount Vernon and Peekskill. File petitions for protests filed in June within 30 days.
September 15	Final rolls filed in towns and City of Rye in Westchester County. File petitions for protests filed in June within 30 days.
November 1	Tentative roll opens in Yonkers; file protests by November 15.

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