

# **IMPORTANT POINTS TO REMEMBER WHEN FILING A COMPLAINT WITH THE BOARD OF ASSESSMENT REVIEW**

Each year on or about June 1<sup>st</sup>, the Tentative Assessment Roll is published which lists the assessed value and estimated market value of your property. Because assessments and estimated market values may change, taxpayers should review the Tentative Assessment Roll each year to ascertain the current assessed value and estimated market value that the assessor has determined for your property. Taxpayers who feel their assessments are excessive, unlawful, unequal or that their property is misclassified, have a right to have their assessments reviewed by the Board of Assessment Review (BAR) by filing a grievance application by the third Tuesday in June. The BAR will inform each grievance applicant of their determination by the publishing of the Final Assessment Roll, typically September 15<sup>th</sup>. Taxpayers who are dissatisfied with the determination made by the BAR, may then seek judicial review under procedures set by New York statutes.

When deciding to file a complaint, it is important to remember that under the law there is a presumption that the assessment is correct. The burden of proof is on the person filing the complaint to show that the assessment is incorrect. To overcome the presumption that the assessment is correct, the person must present convincing evidence to the BAR for consideration. The assessment of real property is not an exact science, but rather an “estimate” of market value as of a particular date. Like any appraisal, it is subjective by nature. Accordingly, if the assessment is within ten percent of the complainant’s estimate of market value, the BAR may not be inclined to make an adjustment.

Following are some of the most common mistakes made by claimants seeking to have their assessments reduced:

## **INSUFFICIENT DATA**

The most common reason for the BAR not granting a reduction in assessment, is that the data or proof submitted with the complaint is insufficient to warrant a change. In most cases, the proof is simply inadequate to overrule the assessor’s judgment and presumption of correctness. It is not the responsibility of the BAR to try and appraise properties, nor will the BAR try and make a guess regarding the market value of a property. It is the responsibility of the claimant to supply the BAR with information which will enable it to make a learned decision with respect to the value of the property.

## **APPRAISAL INADEQUACIES**

Appraisals performed by licensed, certified real estate appraisers usually provide the best form of proof with regard to market value, other than an arms-length sale of the property. Appraisals which include relevant comparable sales with proper adjustments for differences between the property under review and the comparable sales being used are often good evidence of market value.

Appraisals which are done for financing purposes or estate settlement purposes tend to be more conservative in nature, and may or may not, in the opinion of the BAR, reflect market value.

Appraisals should be “as of” the Town’s valuation date for assessment purposes, which is July 1<sup>st</sup> of the year preceding the assessment year for which the grievance complaint is being filed. For appraisals with “as of” values which are different from the valuation date, the BAR may make adjustments to the value conclusions based upon its own information regarding real estate market trends.

Many complainants submit limited, or “short-form” appraisals (as opposed to full narrative appraisals). Some problems that the BAR encounters with this form of abbreviated appraisal include:

1. Comparable sales used are not really comparable properties. Property size, age, condition, neighborhood, etc. should be reasonably close to the subject property. Properties that are similar in other ways, may not be relevant if situated in a different school district.
2. Comparable sales are not adjusted to reflect the differences in the properties being compared;
3. Poor quality or complete absence of photographs of the subject property or the “comparable” properties.

## **REAL ESTATE MARKET ANALYSIS& LISTINGS**

Real estate market analysis studies of the kind often provided by real estate brokerage firms, may provide a good general indication of market values for the purpose of establishing a listing price, but they do not constitute appraisals for tax assessment purposes. Such studies often provide good photographs of the subject and comparable properties, but adjustments are not made for differences between the subject and the comparable properties, so their usefulness is limited.

Listing prices alone do not constitute sufficient proof to warrant reductions in assessments. Listings may be withdrawn and properties may be taken off the market or returned to the market at a later date when the real estate market may have changed. However, if a property has been listed at a value below the assessed value over an extended period of time, the BAR may conclude that the property is over-assessed and make an adjustment accordingly.

## **CONTRACTS OF SALE**

A contract of sale, in and of its self, does not constitute grounds for the BAR to grant a reduction. The sale price could be subject to renegotiation or the sale might not be consummated. Also, the sale may not be an arms-length transaction or reflect typical market values. However, the property owner or the contract vendee will probably want to preserve the right to a judicial appeal by filing for review with the BAR.

## **SALE OF PROPERTY**

The fact that a property has sold at a particular price may not be sufficient grounds for the BAR to adjust the assessment to reflect the purchase price. The BAR will want to be satisfied that the sale was an arms-length sale, and will want to see the contract of sale and the closing statement or HUD document. A property that is sold under duress, foreclosure, between related parties, like-kind exchange, short sale, or other unusual circumstances, may not be considered by the BAR to be an arms-length purchase.

## **INCOME PRODUCING PROPERTIES**

Because it is often hard to find good recent sales of commercial properties, tax assessments are often based upon the income producing potential of the property. The Assessor may use market rental and expense information to estimate the earning potential of a particular property. Property owners or lessees protesting their assessments should be prepared to include income and expense data, preferably certified by an accountant, as well as copies of leases. In the case of more complex commercial properties, quality professional appraisals are recommended to assist the BAR in making a fair determination.