

How to Contest Your Assessment

STATE OF NEW YORK
Eliot Spitzer, Governor



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March 2007

On taxable status date or immediately thereafter, the assessor is required to publish a notice in the locality's official newspaper stating that the assessment inventory and valuation data for your property are available for review and that an appointment may be made with the assessor to review such information.

Another important date in the assessment grievance process is the "tentative roll date". That is the date by which the assessor must file the tentative assessment roll to be used for taxing purposes. For most towns, the tentative roll date is May 1. However, this date also varies among cities, villages and some towns, so you should consult the assessor's office or the municipal clerk as to which date applies in your municipality.

The assessor is required to place a notice in the locality's official newspaper or newspaper of general circulation noting that the tentative assessment roll has been filed, when and where it will be available for public review and when and where the board of assessment review (BAR) will meet to hear assessment complaints. In towns, the notice must also be posted at the entrance to the town clerk's office. State law does not permit the assessor to change assessments after the tentative assessment roll has been filed. Only the BAR can authorize such changes.

Real Property Tax Law section 510 requires the assessor to notify the taxpayer by mail of an increase in assessment, at least 10 days before the date for hearing assessment complaints. The notice should specify each parcel of real property, the assessed valuation for the new assessment year and for the previous year, and the net increase in the assessment.

Such notice should also advise that this publication is available at the assessor's office. Your assessor should complete a fact sheet containing the following information and include it in this publication:

- Address and telephone number of assessor's office;
- Dates, time and location for inspecting the tentative assessment roll;
- Date, time and location for hearing formal assessment complaints;
- Last date for filing of assessment complaints;
- Latest State equalization rate and residential assessment ratio for the assessing unit;
- Stated uniform percentage of value that appears on the tentative assessment roll

It is your responsibility to check your assessment on the tentative roll after it has been filed. Failure to receive a notice of increased assessment will not invalidate your assessment. There is a presumption that the assessment made by the assessor is correct. The burden to prove otherwise is on the property owner.

In situations where the assessor and the owner agree about the assessment after the tentative assessment roll has been filed, the law authorizes them to enter into a stipulation to the agreed-upon assessment. Stipulations are presented to the BAR for ratification (Part 6 of the Complaint form is used for this purpose). After meeting with your assessor, if you are still dissatisfied, you have the right to file a formal complaint with your BAR by the filing deadline.

A non-resident owner can request a date after grievance day for the grievance hearing. Request must be made to the BAR or to the assessor on or before grievance day and the BAR must set a date no later than 21 days after grievance day for the hearing.

When is the meeting of the board of assessment review? In most towns, the BAR meets on the fourth Tuesday of May, except as follows:

- In Erie County, town BARs meet on the first Tuesday of June;
- In Suffolk County, town BARs meet on the third Tuesday of May;
- In Westchester County, town BARs meet on the third Tuesday in June;
- In Nassau County, the Assessment Review Commission meets throughout the year, but complaints must be filed by March 1.
- In cities, the date for the meeting of the BAR must be ascertained from specific charter provisions and the assessor's or the city clerk's office should be contacted; and
- In most villages which assess real property, the BAR meets on the third Tuesday of February; however, village assessment calendars may vary, and the village clerk should be consulted.

In cities and towns which employ an assessor who is at the same time employed by another assessing unit, the local governing body may adopt a local law establishing a different date for the meeting of the BAR. That date may be no earlier than the fourth Tuesday in May and no later than the second Tuesday in June. You should check with your city or town clerk to determine if such a local law is in effect in your city or town.

Complaint procedure

1. Your written complaint should include statements, records, and other relevant information to support your complaint.
2. You should be very careful when determining how much of an assessment reduction to request because you may be precluded from obtaining a greater reduction than the amount you request, even if circumstances should show that a larger reduction is warranted.
3. You have the right to attend the hearing of the BAR and to present statements in support of your complaint. You may appear personally, with or without your attorney or other representative.
4. The BAR consists of three to five members appointed by the legislative body of the assessing unit. The BAR cannot include the assessor or any staff from the assessor's office. Assessors, however, are required to attend all formal hearings of the board and have the right to be heard on any complaint.

You have the right to be represented by your attorney or other representative. To do so, you must authorize such person to appear on your behalf (see Part Four of RP-524). This authorization must be in writing and bear a date within the same calendar year during which the complaint is filed.

other techniques. If the property is income producing (e.g., rental property), value may be estimated by using an income capitalization methodology. If your property is "specialty property" (i.e., property designed for unique purposes or uniquely adapted to the use made of it, which cannot be converted to other uses without expenditure of substantial sums of money), value may be estimated by using the cost method.

To establish the value of your property, the following information may be useful:

1. Purchase price of the property, if recent;
2. Offering price of your property, if recently offered for sale;
3. Professional appraisal of your property;
4. Cost of construction, if recently built;
5. Rental information, if property is rented;
6. Income and expense information, if property is commercial or industrial; or
7. Purchase price of comparable property recently sold.

Part Three - Grounds for complaint

There is a presumption under the law that the assessment made by the assessor is correct. The burden of proof is with you, the complainant, to overcome this presumption. To obtain a correction of your assessment, you must show that the original assessment is unequal, excessive or unlawful or that your property has been misclassified.

A. Unequal Assessment

1. Generally, if assessments in your city, town or village are not made at full value, State law requires that they be made at a uniform percentage of value. If you believe that your property is assessed at a higher percentage of value than the average of all other properties on the same assessment roll, you may claim an unequal assessment. For example, if you prove the value of your property is \$60,000, an assessment of \$45,000 would show that your property is assessed at 75% of market value. If you prove that all other property on the average is assessed at 50%, you may claim a reduction of your assessment to \$30,000.
2. If you own a one, two or three family residence and if you believe that it is assessed at either a higher proportion of full (market) value than other residential property on the assessment roll or at a higher proportion of full (market) value than the assessed valuation of all real property on the assessment roll, you may claim an unequal assessment. For example, if you prove the value of your property is \$60,000, an assessment of \$30,000 would show that it is assessed at 50% of market value. If you prove that all other residential property is assessed on the average at 25%, you may claim a reduction of your assessment to \$15,000.
3. To demonstrate that your property is unequally assessed, you must first establish the full value of the property as indicated above. Note that the State law now requires that the assessment roll display the assessor's estimate of the full value of your property. Then you must establish the average percentage of value at which all other properties are assessed on the same assessment roll. To establish the average percentage of value at which all property is assessed on the assessment roll, the following information may be useful:

C. Unlawful Assessment

1. Property wholly exempt. Certain real property of certain organizations and agencies is wholly exempt from real property taxation (for example, churches, colleges, etc.) If your claim is that the assessment is unlawful because the property should be wholly exempt, you should supply the BAR with information upon which it may make a judgment, including a completed exemption application form if required. (NOTE: If your claim relates to a partial exemption such as a veterans or senior citizen exemption, the assessment is not unlawful, but a failure to grant all or a portion of a partial exemption may constitute an excessive assessment. See item B.2. – Incorrect Partial Exemption above.)
2. Property is entirely outside the boundaries of the city, town, village, school district or special district in which it is designated as being located. If your property is located totally outside the boundaries of the city, town, village, school district or special district indicated on the assessment roll, the assessment on this property is unlawful. You must produce facts showing that no part of the property in question was located within the jurisdiction on taxable status date.
3. Assessment made by person or body without authority. If your property was assessed by someone other than the assessor or if your assessment was entered or changed after the tentative assessment roll was filed, your assessment is unlawful.
4. Property cannot be identified from description. If your property cannot be located from the description on the assessment roll, your assessment is unlawful.
5. If your property is special franchise property and the assessment exceeds the final assessment thereof as determined by the State Office of Real Property Services, your assessment is unlawful.

D. Misclassification (Relevant only in approved assessing units which establish homestead and non-homestead tax rates.)²

Cities, towns and villages certified by the State Board as approved assessing units may elect to establish separate tax rates for homestead and non-homestead real property.

The homestead class includes:

- One, two, or three family residential parcels
- Residential condominiums
- Mixed use parcels (i.e., used in part for residential purposes and in part for non-residential purposes), if the primary use is residential
- Mobile homes and trailers, only if they are owner-occupied and separately assessed
- All vacant land parcels, not exceeding ten acres, which are located in an assessing unit which has a zoning law or ordinance in effect, provided that such parcels are located in a zone that does not allow a residential use other than for one, two or three family dwelling residential real property
- Farm dwellings

² Nassau County and New York City are subject to a different classification system.

BEFORE THE BOARD OF ASSESSMENT REVIEW FOR _____

(city, town village or county)

PART ONE: GENERAL INFORMATION

(General information and instructions for completing this form are contained in form RP-524-Ins)

1. Name and telephone no. of owner(s)

2. Mailing Address of owner(s)

Day no. () _____

Evening no. () _____

3. Name, address and telephone no. of representative of owner, if representative is filing application.
(if applicable, complete Part Four on page 4.)

4. Property location

Street Address

Village (if any)

City/Town

County

School District

5. Property identification (see tax bill or assessment roll)

Tax map number or section/block/lot _____

Type of property: Residence _____ Farm _____ Vacant land _____

Commercial _____ Industrial _____ Other _____

Description: _____

Assessed value appearing on the assessment roll:

6. Land \$ _____ Total \$ _____

7. Property owner's estimate of current full market value of property (see Part Two on page 2) \$ _____

A. UNEQUAL ASSESSMENT (Complete items 1-4)

1. The assessment is unequal for the following reason: (check a or b)
 - a. The assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.
 - b. The assessed value of real property improved by a one, two or three family residence is at a higher percentage of full (market) value than the assessed value of other residential property on the assessment roll or at a higher percentage of full (market) value than the assessed value of all real property on the assessment roll.
2. The complainant believes this property should be assessed at _____% of full value based on one or more of the following (check one or more):
 - a. The latest State equalization rate for the city, town or village in which the property is located is _____%.
 - b. The latest residential assessment ratio established for the city, town or village in which the residential property is located. Enter latest residential assessment ratio only if property is improved by a one, two or three family residence _____%.
 - c. Statement of the assessor or other local official that property has been assessed at _____%.
 - d. Other (explain on attached sheet).
3. Value of property from Part one #7 \$ _____
4. Complainant believes the assessment should be reduced to \$ _____

B. EXCESSIVE ASSESSMENT (Check one or more)

The assessment is excessive for the following reason(s):

1. The assessed value exceeds the full value of the property.
 - a. Assessed value of property \$ _____
 - b. Complainant believes that assessment should be reduced to full value of (Part one #7) \$ _____
 - c. Attach list of parcels upon which complainant relies for objection, if applicable.
2. The taxable assessed value is excessive because of the denial of all or portion of a partial exemption.
 - a. Specify exemption (e.g., senior citizens, veterans, school tax relief [STAR]) _____
 - b. Amount of exemption claimed \$ _____
 - c. Amount granted, if any \$ _____
 - d. If application for exemption was filed, attach copy of application to this complaint.
3. Improper calculation of transition assessment. (Applicable only in approved assessing unit which has adopted transition assessments.)
 - a. Transition assessment \$ _____
 - b. Transition assessment claimed \$ _____

C. UNLAWFUL ASSESSMENT (Check one or more)

The assessment is unlawful for the following reason(s):

1. Property is wholly exempt. (Specify exemption (e.g., nonprofit organization)) _____
2. Property is entirely outside the boundaries of the city, town, village, school district or special district in which it is designated as being located.
3. Property has been assessed and entered on the assessment roll by a person or body without the authority to make the entry.
4. Property cannot be identified from description or tax map number on the assessment roll.
5. Property is special franchise property, the assessment of which exceeds the final assessment thereof as determined by the State Board of Real Property Services. (Attach copy of State Board certificate.)

D. MISCLASSIFICATION (Check one)

The property is misclassified for the following reason (relevant only in approved assessing unit which establish homestead and non-homestead tax rates):

- _____ Class designation on the assessment roll: _____
1. Complainant believes class designation should be _____
 2. The assessed value is improperly allocated between homestead and non-homestead real property.

Allocation of assessed value on assessment roll

Homestead \$ _____

Non-Homestead \$ _____

Claimed allocation

SECTION TWO:
SMALL CLAIMS ASSESSMENT REVIEW

The New York State Unified Court System (UCS) is responsible for administering the Small Claims Assessment Review (SCAR) program. Reprinted herein are the following UCS publications:

- *General Information and Filing Requirements for Counties Outside of New York City,*
- *Instructions for Filing a Petition [Form RPTL 730],* and
- *Form RPTL 730 (Revised March 2007)* for use in seeking assessment reductions for qualified properties before a Small Claims Assessment Review Hearing Officer.

Information regarding SCAR proceedings for property located in New York City can be obtained from the New York City Tax Commission at 212-669-4410 or www.nyc.gov/html/taxcomm/html/home/home.shtml

GENERAL INFORMATION AND FILING REQUIREMENTS FOR COUNTIES OUTSIDE OF NEW YORK CITY

Who may file? Any person aggrieved by an assessment of a one, two or three-family, owner-occupied residential structure used *exclusively* for residential purposes who has filed a written complaint with the board of assessment review (or other administrative review body of the assessing unit) in regard to that assessment. Condominiums are not eligible for small claims review, EXCEPT (1) owner-occupied condominiums used exclusively for residential purposes that are located in Nassau County and designated as "Class One" property. (See Section 1802(1), Real Property Tax law), and (2) condominiums that have been designated in the "homestead" class in any approved assessing unit, are eligible.

You may complete the Petition yourself, or have a representative do it for you. If you choose to have a representative file for you, you must complete the "Designation of Representative" section of the petition.

What assessment can be reviewed? The only assessment that can be reviewed is that on the current final assessment roll completed and filed by your assessor. The right to review is based upon the timely filing of a written petition. A separate petition must be filed for each separately assessed parcel. You may not request an assessment lower than that which you requested before the Board of Assessment Review. The assessment of a property having an equalized value of \$450,000 or less may be reviewed without further limitation. If the equalized value of the property exceeds \$450,000, the total assessment requested reduction may not exceed 25 percent of the assessed value.

When and where must the petition be filed? Three copies of the petition must be filed with the Clerk of the county in which your real property is located, within 30 days of the filing of the final assessment roll for your assessing unit. Your petition must be accompanied by a \$30 filing fee and should include supporting statements, records, and other relevant information to support your petition. If you cannot file your petition in person you may mail your petition, but it must

2. You may appear personally, with or without an attorney or other representative, to support the statements contained in the petition and attachments.
3. You may authorize an attorney or other representative to appear personally without you to support the petition. This authorization must be in writing and bear a date within the same calendar year during which the petition is filed.
4. There is a presumption under the law that the assessment made by the assessor is correct. The burden of proof is with you, the petitioner, to overcome this presumption.
5. The hearing officer will require you or your representative to appear personally, and may request that you submit additional evidence. If you willfully refuse or neglect to produce such evidence, or to answer any material question put to you, you may be unable to obtain any reduction in assessment from the hearing officer. Failure to appear shall result in the petition being determined by the hearing officer based upon the available evidence submitted.
6. The hearing officer may determine the final assessment to be the same as or less than the original assessment. However, he cannot reduce your assessment to an amount lower than you claimed on your petition.
7. Amount of reduction on petition is limited by amount claimed. The amount by which you believe your assessment should be reduced cannot later be changed after you enter this amount on the petition and file it. For example, if you claim an excessive assessment and set forth in your petition that you seek a reduction of \$2,000, you cannot later seek a larger reduction than the \$2,000 originally sought. Further, the hearing officer cannot legally grant a greater reduction than the amount you request, even if circumstances should show that a larger reduction is warranted.
8. Filing of a petition for small claims assessment review constitutes a waiver of a right to commence a proceeding for judicial review of the assessment pursuant to Title 1 of Article 7 of the Real Property Tax Law.

INSTRUCTIONS FOR COMPLETING THE PETITION [Form RPTL 730]

Part I – General Information

You or your representative must complete all of Part 1, except for “filling number” and “calendar number”, which are the responsibility of the County Clerk and the assessment review clerk. (Of course, you should complete the information regarding a representative only if you choose not to represent yourself.)

1. An “assessing unit” is each city, town and village, except in the counties of Nassau and Tompkins. In Nassau County, the County assesses real property instead of the towns (cities and villages in that county remain independent assessing units). In Tompkins County, the County is the assessing unit for all municipalities (i.e., the City of Ithaca and all towns and villages).

village assessment, you must use the State equalization rate for the village. Your assessor or the County Director of Real Property Tax Services can advise you if your property is in a special assessing district, and can provide you with the appropriate equalization rate or class one ratio.

If the EQUALIZED VALUE is greater than \$450,000, the total *reduction* in assessment requested may not exceed 25 percent of the assessed value. If the EQUALIZED VALUE is \$450,000 or less, you are limited to requesting a *reduction* that does not exceed what was requested before the Board of Assessment Review.

C. Unequal Assessment

1. If you believe your property is assessed at a higher percentage of full (market) value than the average of all other properties on the same assessment roll or at a higher percentage of full value than other residential properties on that assessment roll, you may claim an unequal assessment and you should complete this section of the petition.

For example, if you prove the market value of your property is \$20,000, a total assessment of \$15,000 would show that it is assessed at 75 percent of market value. If you prove that all other property, or other residential property, on the average is assessed at 50 percent (see below) you may claim a reduction of your total assessment to \$10,000.

2. You must establish the market value of your property in order to develop the percentage of market value represented by your total assessment. (See "Information To Support Your Full (Market) Value Claims," below.) Then you must prove that this percentage is higher than the average percentage at which all other properties or other residential properties are assessed on the same assessment roll.

This section of the petition requires that you set forth the information to establish the average percentage of full value at which property is assessed on the assessment roll. You may find the following information useful:

1. The latest state equalization rate for your assessing unit (county, city, town or village).
2. The latest residential assessment ratio for your assessing unit, if your claim is that your property is assessed at a higher percentage of full value than other residential properties on the same roll.
3. The assessments and either the market value or recent purchase price of comparable residential properties.
4. Statements of the assessor or other local officials.

D. Excessive Assessment

1. **Overvaluation.** If you believe the total assessed value of your property is greater than the market value of the property, you may claim an excessive assessment by completing this section of the Petition. You must establish the market value of your property. (See, Information to Support Your Full (Market) Value Claims, below.
2. **Incorrect Partial Exemption.** If your property was denied all or a portion of a partial exemption, you may also claim an excessive assessment, by completing this section of the

PETITION
SMALL CLAIMS ASSESSMENT REVIEW
IN COUNTIES OUTSIDE NEW YORK CITY
(one petition per parcel)

Part I
GENERAL INFORMATION

SUPREME COURT, COUNTY OF _____

1. Filing # _____ Calendar # _____
2. Assessing Unit _____
3. Date of final completion and filing of assessment roll _____
 - (a) Total _____
 - (b) Exempt amount _____
 - (c) Taxable assessed value (3a-3b) _____
4. Date of filing (or mailing) petition _____

5. Name of owner or owners of property:

Post Office Address:

Telephone #:

6. If applicable, name and address of representative of owner, if representative is filing application: (owner must complete Designation of Representative section.)

Telephone #:

7. Description of property as it appears on the assessment roll.

Tax Map # _____ Section _____ Block _____ Lot _____

8. Location of property (street, road, highway number, and city, town or village.

- INFORMATION TO SUPPORT THE FULL (MARKET) VALUE CLAIMED
1. Purchase price of property \$ _____
 Date of purchase _____
 Relationship, if any, between seller and purchaser _____
 2. If property has been recently offered for sale:
 When and for how long: _____
 How offered: _____
 Asking price: \$ _____
 3. If property has been recently appraised:
 When: _____ By Whom: _____
 Purpose of appraisal: _____
 Appraised value: \$ _____
 4. If buildings have been recently remodeled, constructed, or additional improvements made, state:
 Year remodeled, constructed, or additions made: _____
 Date commenced: _____ Date completed: _____
 Cost: \$ _____
 5. Amount for which your property is insured: \$ _____
 Name of insurance company and policy number: _____
 6. Purchase price of comparable property(ies) recently sold: \$ _____

PART III
LISTING OF TAXING DISTRICTS

Names of Taxing Districts

1. COUNTY:
2. TOWN:
3. VILLAGE:
4. SCHOOL DISTRICT