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COMMITTEE ON FINANCE

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FINANCE

October 4, 2018
Start: 10:29 p.m.
Recess: 11:16 a.m.

HELD AT: Council Chambers - City Hall

B E F O R E: DANIEL DROMM
Chairperson

COUNCIL MEMBERS:

- ADRIENNE E. ADAMS
- ANDREW COHEN
- ROBERT E. CORNEGY, JR.
- LAURIE A. CUMBO
- VANESSA L. GIBSON
- BARRY S. GRODENCHIK
- RORY I. LANCMAN
- STEVEN MATTEO
- FRANCISCO P. MOYA
- KEITH POWERS
- HELEN K. ROSENTHAL
- JAMES G. VAN BRAMER

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COMMITTEE ON FINANCE

A P P E A R A N C E S (CONTINUED)

Ellen Hoffman
President of the New York City Tax Commission

Peter Blond
Immediate Past Chair of the Condemnation and Tax
Certiorari Committee of the New York City Bar
Association

Glenn Borin
Attorney with Marcus and Pollack LLP

[gavel]

CHAIRPERSON DROMM: Okay, good morning and welcome to today's Finance Committee meeting. My name is Council Member Daniel Dromm and I'm Chair of the Committee. We've been joined by Council Member Steve Matteo, Council Member Adrienne Adams, Council Member Andy Cohen, Council Member Keith Powers, Council Member Barry Grodenchik. Today the Committee will be hearing Intro 1038 sponsored by Council Member Barry Grodenchik, myself and Council Member Kalman Yeger. This bill would increase the threshold for when an income producing property is required to provide a statement of income and expense certified by... certified by a certified public accountant in order to receive an assessment and reduction for the tax commission. Currently income producing properties with an assessed value of one million dollars or more are required to submit such certification. This bill would increase that threshold to properties with an assessed value of five million dollars or more index to inflation. Each year the Department of Finance values every property within the city to determine its value for property tax purposes. This value is called an assessment. The method of calculating value

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2 at the DOF uses varies depending on the class and
3 type of property. By January 15th, DOF publishes the
4 tentative assessment role setting forth tentative
5 assessment of each property for the next tax year
6 beginning in July... on July 1st. the tentative
7 assessment role is subject to modification until the
8 final assessment role is closed around May 25th. This
9 is where the tax Commission comes in, the Tax
10 Commission is the city's form for independent
11 administrative review of real property tax
12 assessments set forth... set by DOF. A property owner
13 may challenge their tentative assessment on one of
14 four basis. One, a misclassification; two,
15 excessiveness; three, inequality; or four,
16 unlawfulness. As part of the application for review,
17 income producing properties with the exclusion of
18 multiple other dwellings which are occupied by fewer
19 than seven families must report all income received
20 or accrued and all expenses paid or incurred in the
21 operation of the property. This information is used
22 by the Tax Commission to help determine the
23 assessments of these types of properties. Income
24 producing properties with an assessed value of one
25 million dollars or more must have a certified public

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2 accountant audit the building's income and expense
3 statement and certify that they are free from
4 material misstatement. The one-million-dollar
5 threshold was first set by Local Law in 1973 and has
6 not been adjusted since then. This is the issue that
7 we are here to learn more about today and I look
8 forward to hearing the testimony of Ellen Hoffman,
9 President of the Tax Commission on this bill. Before
10 I turn the mic over to Council Member Grodenchik, the
11 sponsor of the legislation for his statement I'd like
12 to thank Rebecca Chasan and Emra Edev from the
13 Finance Division and Sabastian Maguire and Ivia
14 Cardozo from my staff for their work in putting
15 together today's hearings. Council Member Grodenchik.

16 COUNCIL MEMBER GRODENCHIK: Thank you
17 very much Chair Dromm, I'm just going to make very
18 brief remarks and I want to thank my colleagues as
19 well and thank you for giving this bill a hearing.
20 This is basically common-sense legislation. I was 13
21 when the city last took this up so that'll give you
22 some idea, I'm 58 now so... for those of you math
23 challenged. Decades ago the city exempted income
24 reducing properties valued at a million dollars or
25 less from the requirement of producing certified

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2 financial statements when requesting a lowering of
3 their property taxes. Inflation has basically
4 rendered this exemption useless, you would be very
5 hard pressed in the city of New York to find an
6 income producing property for under a million dollars
7 and what we're really asking the city to do with this
8 legislation is to bring it up to five million dollars
9 which is still a little lower than where it would be
10 inflation wise. The other reason that we're asking
11 for this is that the cost of certified financial
12 statements have also increased tremendously, we are
13 today in this bill proposing raising the exemption to
14 a five million dollars of assessed valuation and
15 indexing that value so that we do not have to revisit
16 this anytime in the future and that's really
17 essentially what the bill does. I want to thank you
18 for giving the bill a hearing and I look forward to
19 hearing the testimony from the Tax Commission and
20 others. Thank you, Mr. Chairman.

21 CHAIRPERSON DROMM: We will now hear from
22 President Hoffman after she is sworn in by counsel.

23 COMMITTEE CLERK: Do you affirm that your
24 testimony will be truthful to the best of your
25 knowledge, information and belief?

1 ELLEN HOFFMAN: Yes, I do.

2 CHAIRPERSON DROMM: Okay, please begin.

3 ELLEN HOFFMAN: Good morning. Thank you

4 Chair Dromm and members of the Committee for inviting

5 me to speak on Intro 1038 this morning and thanks to

6 Council Member Grodenchik and the other sponsors for

7 their leadership in, in bringing this bill to this

8 point. My name is Ellen Hoffman and I'm the President

9 of the New York City Tax Commission. Let me start by

10 saying that I fully support the primary purpose of

11 this bill in increasing the dollar threshold for Tax

12 Commission applications for correction requiring the

13 certification of a certified public accountant. The

14 Tax Commission is sympathetic to the burden placed on

15 owners of modest sized properties having to pay

16 accountants several thousand dollars to certify their

17 income and expense statements and we agree with the

18 proposed increase in the threshold to five million

19 dollars. As the Chair mentioned the current threshold

20 of one million dollars was adopted in 1973. I don't

21 have perfect statistics to illustrate all of the

22 changes in relevant facts since then, but I think I

23 can give you a good idea of how things have changed.

24 In 1977, the total actual assessed value of all

1
2 property in the city was under 40 million dollars.
3 For fiscal '19... '20... 2018, the total taxable actual
4 assessed value was over 251 billion dollars. In 1986,
5 the total assessed value of all parcels filing
6 appeals with the Tax Commission was just over 40
7 billion. In... for fiscal 2019, that total is over 233
8 billion. In fiscal 1993, the number of applications
9 filed with the Tax Commission for properties having
10 an assessed value of over 750,000 was about 10,500.
11 For fiscal 2019 the number of applications filed for
12 properties with an assessed value of over 450,000 was
13 over 39,000. Although it's not a perfect comparison,
14 I feel confident in saying that the number of
15 applications requiring an accountant's certification
16 has increased by at least 300 percent in the last 15
17 years. In short, the million-dollar threshold does
18 not have the same significance today as it did when
19 it was adopted 45 years ago. With the increase in
20 assessed values in the 45 years since that threshold
21 was adopted, owners of what are now modest sized
22 properties are burdened with the expense of hiring
23 accountants to issue the certifications. Last year,
24 of the 54,557 applications filed with the Tax
25 Commission, 25,209 were for properties having the

1
2 assessed value of one million dollars or more. But
3 only 69... over... slightly over 69,000 were for
4 properties having an assessed value of five million
5 dollars or more. As a result, with this legislative
6 change, as many as 18,000 applicants will no longer
7 have to provide that certification. However, while we
8 support the increase in the threshold for vary
9 practical reasons, we strongly object to the
10 provision requiring the threshold to be indexed to
11 inflation on a yearly basis. Applications with the
12 Tax Commission are due March 1st each year for tax
13 classes two, three and four. Many are filed shortly
14 after the Notice of Property Value is issued by the
15 Finance Department in mid-January. Our forms and
16 instructions have to be printed by December to have
17 them available to applicants. The average annual
18 increase in the Consumer Price Index each year is not
19 released until mid-January so it would be impossible
20 for us to incorporate that change into our forms and
21 instructions and to effectively communicate the new
22 threshold to applicants in time. Moreover, the most
23 recent increase was just over two percent. That
24 represents a very small change in assessed value to
25 justify the practical difficulties of adjusting the

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2 certification threshold each year. Applicants might
3 incur an unnecessary expense because they were
4 unaware of a slight change in the threshold. Thank
5 you again for giving me the opportunity to address
6 you today and I'm happy to answer any questions you
7 might have.

8 CHAIRPERSON DROMM: Thank you very much
9 and thank you for your testimony. So, let me start
10 off by asking you a couple of questions. In its
11 memorandum supporting the threshold change from one
12 million dollars to five million dollars the Committee
13 on Condemnation and Tax Certiorari of the New York
14 City Bar stated that a survey of their clients
15 indicated that the cost of having an accountant audit
16 a building's records and prepare the certification
17 would cost 10,000 dollars or more. Do you have any
18 data or knowledge about how much the certification
19 process might cost?

20 ELLEN HOFFMAN: I'm sorry I didn't
21 understand the first part of the question.

22 CHAIRPERSON DROMM: though... in, in a
23 memorandum supporting the threshold change from one
24 million dollars to five million dollars the Committee
25 on Condemnation and Tax Certiorari, I think that's

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2 how you say it, of the New York City Bar stated that
3 a survey of their clients indicated that the cost of
4 having an accountant audit a building's records and
5 prepare the certification could cost ten thousand
6 dollars or more, so do you have any data or knowledge
7 on how much the certification process might cost?

8 ELLEN HOFFMAN: I don't have any data, I
9 believe it certainly is over, you know a few thousand
10 dollars, but we don't have direct information about
11 what individual applicants or their representatives
12 or accountants charge for that service.

13 CHAIRPERSON DROMM: And do you have any
14 information about what the process that the
15 accountant might follow, and can you explain what it
16 entails?

17 ELLEN HOFFMAN: I'm not an accountant so
18 I hesitate to comment on, on what their professional
19 responsibility or duties are.

20 CHAIRPERSON DROMM: Have you heard any
21 complaints or grievances from applicants that
22 undergoing the audit and certification process is
23 either burdensome or expensive and ultimately that's
24 what I'm really trying to get at?
25

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2 ELLEN HOFFMAN: I have heard from time to
3 time since I've been President that the threshold at
4 this point is too low, so I have heard complaints
5 along those lines, yes.

6 CHAIRPERSON DROMM: Okay. Because this
7 bill would raise the threshold for when an
8 application needs documentation certified by an
9 accountant, you testified that about 18,000 fewer
10 certifications would be filed, how if at all would
11 this impact the ability of the Tax Commission to
12 conduct a thorough review?

13 ELLEN HOFFMAN: So, the certification of
14 the accountant is only one element of the information
15 that the Tax Commission requests and requires that we
16 use in our process in reviewing assessed values, it
17 doesn't relieve the Tax Commission of its obligation
18 or desire to review the individual income and expense
19 information provided, it gives us just one level of
20 comfort but otherwise we still look at that
21 information to see whether it is consistent with
22 other information we have about that particular
23 property or similar properties such as a rent roll,
24 the property description whether there's commercial
25 space in the property, the, the number of square feet

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2 and so on so we continue to do whether there's a
3 certification or not we do a thorough examination of
4 the information on the application.

5 CHAIRPERSON DROMM: So, does the
6 Commission's workload or workflow differ when you're
7 reviewing applications that are accompanied by an
8 accountant's certification and reviewing those
9 applications that are not?

10 ELLEN HOFFMAN: No.

11 CHAIRPERSON DROMM: No, are there
12 different levels of scrutiny given to the certified
13 versus non-certified applications?

14 ELLEN HOFFMAN: No.

15 CHAIRPERSON DROMM: Okay. Many of the
16 income producing properties that are required to file
17 income and expense statements as part of their
18 appeals must also file real property income tax and
19 expense statements or RPIEs with the Department of
20 Finance in order for the DOF to determine the
21 assessed value in the first instance, what are the
22 main differences between the RPIE and the income and
23 expense schedule that the Tax Commission requires to
24 be submitted as part of the application for the
25 assessment reduction?

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2 ELLEN HOFFMAN: The primary difference is
3 timing; the RPIE statement is required to be filed by
4 June 1st of the immediate succeeding year so for... in
5 2017 on June 1st of '17 property owners were required
6 to file that statement for the 2016 year. For
7 applications of correction filed... and those are used
8 for the... creating the assessments for the 2018/19 tax
9 year. The applications the Tax Commission receives in
10 2018 are required to include 2017 information so
11 we're looking at information that is one year more
12 current. In terms of the types of information
13 required there are slight differences but they're not
14 significant.

15 CHAIRPERSON DROMM: So, why does the Tax
16 Commission require a different filing rather than
17 using the RPIE that a property has already prepared?

18 ELLEN HOFFMAN: Primarily it gives us
19 more current information but it... there's also a
20 distinction in terms of tax secrecy, RPIE information
21 is tax secrets, tax... the information the Tax
22 Commission receives is not... we do allow property
23 owners to submit tax... RPIE information to us.

24 CHAIRPERSON DROMM: In your 2017 annual
25 report you noted that the Department of Finance may

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2 appear at hearings and offer written submissions in
3 defense of the assessment and that for the past
4 several years representatives from DOF have
5 participated in a number of hearings, quote, unquote,
6 how frequently does the DOF participate in hearings
7 and do you find their presence useful or beneficial
8 in your review?

9 ELLEN HOFFMAN: They primarily
10 participate in hearings on properties with
11 substantial values, they're, they're the very highest
12 valued properties, don't have... [cross-talk]

13 CHAIRPERSON DROMM: How would you define
14 that?

15 ELLEN HOFFMAN: I mean... as four... 40
16 million dollars assessed values and higher, they
17 don't tend to come in on the smaller properties for
18 the most part. Their presence does help all parties
19 at the hearing achieve consensus on information such
20 as square footage to reconcile discrepancies or to
21 give the Finance Department an opportunity to present
22 information that they may have about the property
23 where we... there might be inconsistencies between
24 information submitted to us and it allows us to
25 reconcile those differences which assist everyone in

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2 avoiding having assessments that then have to be
3 reviewed in the future that can be more consistent
4 between finance and, and the Tax Commission.

5 CHAIRPERSON DROMM: So, would you find
6 their participation increased participation helpful?

7 ELLEN HOFFMAN: It's somewhat helpful,
8 yes.

9 CHAIRPERSON DROMM: Has the Tax
10 Commission identified any trends or repeat issues
11 with respect to errors that the DOF has made in
12 assessments in the case where you find in favor of
13 the property owner?

14 ELLEN HOFFMAN: There's not really a
15 trend that I can point to, there's... each case really
16 stands on its own.

17 CHAIRPERSON DROMM: Is there a mechanism
18 for collecting that information or is it just
19 anecdotal?

20 ELLEN HOFFMAN: It would be anecdotal.

21 CHAIRPERSON DROMM: The Council is aware
22 that the DOF is very close to rolling out its new
23 property tax system or PTS after many years of
24 developing the program, what role has the Tax
25 Commission had in developing this new system?

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2 ELLEN HOFFMAN: So, the system that the
3 Finance Department has been using for many years
4 incorporates... well elements of that system are the..
5 are the systems that the Tax Commission uses in doing
6 it's work so PTS actually is replacing all of our
7 computer systems that integrate with that so members
8 of my staff have been extremely involved in
9 developing those components of the system for the
10 last three years and we're still working with them to
11 get it ready to roll out this year.

12 CHAIRPERSON DROMM: Well what features of
13 the new system do you think will be most beneficial?

14 ELLEN HOFFMAN: The availability of the,
15 the more easy access to all of the information about
16 a particular property, it's a little more seamless in
17 terms of the ability to look at... view information,
18 right now there's a couple of different systems that
19 you have to keep signing in and out of systems to
20 look at information.

21 CHAIRPERSON DROMM: Was there anything
22 that was not put into the system that you wish was
23 put into the system?

24 ELLEN HOFFMAN: We're working on some
25 additional components to assist our work that we're...

1
2 are now generated outside of finance's existing
3 computer system that we're going to try to work
4 through and have.. use that system to generate reports
5 and various kinds of elements that we use in our
6 work.

7 CHAIRPERSON DROMM: Okay, now the charter
8 requires that the Tax Commission produce an annual
9 report detailing the Tax Commission's work, we find
10 that useful and helpful to us but it's not available
11 on your websites, do you have the.. I think.. let me
12 just see.. the two most recent reports are 2017 and
13 '16, why do you only have two years' worth of those
14 reports available online?

15 ELLEN HOFFMAN: We can look to put older
16 ones on the website, I think the practice had been in
17 the past to just have the two most recent years and
18 not to have older data.

19 CHAIRPERSON DROMM: Okay, and the charter
20 calls for the Tax Commission to have six
21 commissioners in addition to the President but
22 currently there are only four positions filled, what
23 is the status of the effort to fill those other
24 positions?

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2 ELLEN HOFFMAN: We have over the last
3 four years been looking to recruit qualified
4 individuals. So, there's one requirement that the Tax
5 Commission members have, a representative of... one of
6 the each, each of the five boroughs, right now we
7 don't have representatives of the Bronx and Staten
8 Island and we have had a great deal of difficulty
9 identifying qualified and interested individuals to
10 do that kind of work from those boroughs who are
11 interested in the position.

12 CHAIRPERSON DROMM: Has that inhibited
13 your ability to be able to do the work that's
14 necessary or the work... the workload that you have to
15 deal with?

16 ELLEN HOFFMAN: It hasn't significantly.
17 The Commissioners work part time during our hearing
18 season so it's a small incremental burden but it gets
19 spread among the, the rest of us.

20 CHAIRPERSON DROMM: And just for the
21 public's understanding as well can you explain the
22 process by which a person gets appointed to the Tax
23 Commission?

24 ELLEN HOFFMAN: Initially they have to
25 meet requirements in terms of education and

1 background and as I said there's a residency
2 requirement as well, they also have to be appointed
3 by the Mayor with the advice and consent of the city
4 council and be reappointed on a six year basis so it
5 requires someone who has the proper qualifications,
6 who's willing to go through that process. We also...
7 one of the inhibitors is we need someone who is not
8 too closely tied to the real estate business where
9 they would they have a conflict by doing these kinds
10 of cases where it might be a conflict with their
11 outside employment so it tends to be people who are
12 retired from active work in the real estate field but
13 who have the relevant experience.

14
15 CHAIRPERSON DROMM: Okay, good. I just
16 want to say that we have been joined by Council
17 Members Van Bramer, Cornegy, Cumbo and Rosenthal and
18 I'm going to turn the questions over now to Council
19 Member Grodenchik.

20 COUNCIL MEMBER GRODENCHIK: Thank you Mr.
21 Chairman. Just a few brief questions. I want to thank
22 Miss Hoffman for being here today and I certainly
23 appreciate your support of the bill. Though you were
24 not able to give an estimate on what the savings
25 might be, my counsel who is actually a guy that

1 starting at the security exchange Commission informs
2 me that, you know an audit like this would be in the
3 thousands and thousands of dollars so if we took a
4 figure of 5,000 dollars times 18 we would be saving
5 New York City businesses roughly 90 million dollars a
6 year if this legislation is passed and signed by the
7 Mayor so I think that's very significant. I do note
8 your objection to the indexing and I appreciate it as
9 sponsor of the legislation and I realize that the
10 rate of inflation is fairly low these days and has
11 been for quite a while, would the Tax Commission have
12 an objection if we did the indexing a year later so
13 it... we understand that you have to go to print with
14 your forms in December and I appreciate that but
15 there's no reason that we couldn't update... we'd be
16 lagging a year and that seems to me a reasonable
17 solution to the problem.

19 ELLEN HOFFMAN: The Tax Commission is
20 willing, you know and certainly understands and
21 agrees with the concept of having some sort of
22 mechanism in the... in the legislation to adjust the
23 threshold periodically so we don't have to revisit
24 it, I'd be happy to discuss possible alternatives...
25 [cross-talk]

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2 COUNCIL MEMBER GRODENCHIK: Yeah, because
3 I'm not going to be here in 45 years, I don't expect
4 to be I'll be... Danny may be but I won't but... so that
5 really would, would seem to me... and if you go digital
6 then it would be... you'd be able to adjust it on the
7 fly although I could see cases where that could
8 create a problem also because some people might
9 download a form earlier than others but if we did it...
10 there's one index we know what it is and I don't
11 think that should be a problem, an, an undue burden
12 on the Commission.

13 ELLEN HOFFMAN: No... it's not so much a
14 burden on the Commission, my concern is that an index
15 number is go... not going to be a, a nice clean round
16 figure for people to keep in their heads and to know
17 when the accountant needs to provide that
18 certification or not... [cross-talk]

19 COUNCIL MEMBER GRODENCHIK: We could do
20 it in increments of ten... with 10,000 would that be...
21 [cross-talk]

22 ELLEN HOFFMAN: Increments, incremental
23 numbers certainly are a, a possibility, yes.

24 COUNCIL MEMBER GRODENCHIK: Okay,
25 alright. That's really what I wanted to talk about,

1
2 I, I saw your testimony and that's really.. I'm, I'm
3 very happy that you support this, I think it's very
4 much common sense legislation that obviously is at
5 least 40 some odd years overdue so I thank you for
6 your support and I thank you Mr. Chairman for
7 allowing me the time to speak this morning.

8 CHAIRPERSON DROMM: Okay, Council Member
9 Adams.

10 COUNCIL MEMBER ADAMS: Thank you Mr.
11 Chair. First, I'd like to thank my colleague, Council
12 Member Grodenchik for taking the lead on this
13 important legislation, it is very long overdue, thank
14 you Miss Hoffman for being here with us this morning.
15 Just a quick question about bringing us into the 21st
16 century, I didn't hear anything referenced in, in
17 prior questions regarding exploring going digital for
18 the Commission, are there any plans?

19 ELLEN HOFFMAN: With the new computer
20 system that the Finance Department is implementing
21 there are greater possibilities of going more digital
22 with our process. One limitation is that by city
23 charter our applications need to be notarized, we
24 need an original notarized signature, there are
25 possible alternatives, but it would require a

1
2 legislative fix at least to that component. We have a
3 new Head of our IT division and he and I have been
4 discussing incremental things that we can do once
5 this new computer system is in place and all the bugs
6 have been worked out so we're not trying to do too
7 many things at the same time but we are exploring
8 what we can do to move us into the 21st... or at least
9 the 20th century.

10 COUNCIL MEMBER ADAMS: That's good.

11 Legislation aside, do you have a particular timeline
12 that you're looking at in, in starting or completion?

13 ELLEN HOFFMAN: We are actually sitting
14 down with representatives of DoITT to talk about what
15 kind of support they can provide for our various
16 options that we're exploring.

17 COUNCIL MEMBER ADAMS: Okay, thank you.

18 CHAIRPERSON DROMM: Okay, Council Member
19 Powers followed by Rosenthal.

20 COUNCIL MEMBER POWERS: Council Member
21 Grodenchik covered most of my questions about
22 alternate ways to... or sort... around the adjusting for
23 the future but I wanted to just ask a follow up
24 question to his, is... are there other ways that you've
25 considered to be able to adjust for the future if

1
2 it's not... if it's not doing a sort of automatic
3 adjuster based on inflation or the suggestion he
4 makes are there other ways that you could think of
5 that we could... can adjust for the future?

6 ELLEN HOFFMAN: I think having a stepped
7 increase by a dollar amount whether it's 10,000 or
8 some larger number on a longer term that would be
9 predicable and knowable well in advance by all
10 parties in the process.

11 COUNCIL MEMBER POWERS: Okay... [cross-
12 talk]

13 ELLEN HOFFMAN: As a reasonable alternate
14 option.

15 COUNCIL MEMBER POWERS: Great, thank you.

16 CHAIRPERSON DROMM: Okay, Council Member
17 Rosenthal.

18 COUNCIL MEMBER ROSENTHAL: Thank you so
19 much, really appreciate your testimony and Council
20 Member Grodenchik really appreciate your bill. So,
21 thank you for that. I want to follow up a little bit
22 on a question that Council Member Adams just asked
23 and she's very polite and I'm less polite. So, I
24 didn't hear a timetable, do you have a... do you have a
25 goal in mind for when... I guess it's a twostep

1
2 question, do you happen to know if DOF has a goal in
3 mind for when they're computer system would be
4 completed and this is a question that the committee's
5 been asking since the beginning of our tenure in 2014
6 and then secondly, do you have a sense of the timing,
7 you know for you?

8 ELLEN HOFFMAN: My understanding is that
9 the current time the new system is going to come in
10 at the beginning of 2019... [cross-talk]

11 COUNCIL MEMBER ROSENTHAL: Uh-huh...
12 [cross-talk]

13 ELLEN HOFFMAN: ...and the enormity of the
14 impact of switching computer systems on the operation
15 of the Tax Commission really can't be overstated. We
16 have... we're an agency of 39 staff and that actually
17 includes staff of the New York City Tax Appeals
18 Tribunal which is part of the Office of
19 Administrative Tax Appeals, we receive over 55,000
20 applications every year that have to be processed and
21 reviewed carefully before the end of the year. So, in
22 the course of trying to process all of those
23 applications and try to implement some electronic
24 system its juggling a lot of things at the same time
25 and I don't want to put the cart before the horse by

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2 moving forward with what might be a fairly pricey
3 contractual program to go to a digital application
4 while we're getting used to a new computer system to
5 process those applications, I'd like to have that be
6 completely seamless right now and then start working
7 on it but we are looking into having small
8 incremental steps such as forms that can be completed
9 online and printed so that we can read that data
10 digitally and store it digitally instead of in the
11 over 100 filing cabinets that we have now... [cross-
12 talk]

13 COUNCIL MEMBER ROSENTHAL: You know I...
14 New York City is big, that's, that's what we all have
15 agreed that we all as public servants know that we
16 have a big city and our understanding is our city
17 government is funded appropriately for our really big
18 jobs, I get that and I understand this must be a very
19 complex thing, I don't doubt it and I also hear you
20 saying that you've started that work already with the
21 IT person, of course you have, that's great. Do you
22 think that there's any way in this change in the law
23 that it would necessitate your office to have more
24 than 39 staff?

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2 ELLEN HOFFMAN: The... this particular
3 piece of legislation, no not at all.

4 COUNCIL MEMBER ROSENTHAL: Okay, thank
5 you very much.

6 CHAIRPERSON DROMM: Okay, I think that's
7 going to be it then. Thank you very much for coming
8 in, we appreciate your testimony and we do have two
9 others who are going to now... [cross-talk]

10 ELLEN HOFFMAN: Thank you.

11 CHAIRPERSON DROMM: ...come up. Peter Blond
12 from the New York City Bar and Real Estate Tax Review
13 Board I think and the... Glenn Borin from New York City
14 Bar Association and Real Estate Tax Review Bar
15 Association, excuse me. Okay, I think we're ready to
16 start, would you like to start? Would... good morning.

17 PETER BLOND: My name is Peter Blond, I
18 am the immediate past Chair of the Condemnation and
19 Tax Certiorari Committee of the New York City Bar
20 Association. I want to thank you for taking the time,
21 all of you for taking the time to consider our
22 Committee's proposal that this longstanding threshold
23 be updated. I don't want to be too repetitive, we've
24 covered statistics already. One thing I'd like to
25 highlight that has not been highlighted yet today is

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2 that the accountant certification does not provide
3 the justification for a reduction at the Tax
4 Commission, it is merely the vehicle which permits a
5 substantive hearing. All of these taxpayers are being
6 denied substantive review at present who cannot
7 afford or find a CPA with the time on short notice to
8 perform an audit along these, these requirement
9 levels. To give you an idea of client X for must of
10 us who deal with the taxpayers, I'll receive a call
11 in late January or early February of any given year
12 over the course of my 20 year career and you'll have
13 a taxpayer with an assessment a year prior of say
14 500,000 paying roughly 50,000 dollars a year in real
15 estate taxes who wakes up upon receiving their, their
16 property adjustment in late January of that year and
17 find that they've been assessed at over a million now
18 and that the city has targeted them to start paying
19 taxes of, of roughly 100,000 in the next several
20 years. They call somebody like myself and I explain
21 to them the paperwork required and the, the time
22 frame involved and most of these are mom and pop type
23 operators whom have never had cause to have a CPA on
24 retainer, they, they use a, a regular public
25 accountant and they start calling in February to

1 certified public accountants typically of, of, of
2 larger house size and are told it'll be 10,000
3 dollars and more for them to complete this audit
4 within the next month or so. The city deadline for
5 these income and expenses is March 24th of each year
6 and of course for the IRS or State of New York you
7 don't have to give those figures in until much later,
8 in some, sometimes on extension six months after
9 April 15th. So, it goes without saying that between
10 the cost and time frames involved the average tax
11 payer because we are talking about average properties
12 in today's day and age are put in the position where
13 they have to pay these increased taxes without a
14 substantive opportunity to be heard and that
15 effectively in today's day and age is taxation
16 without representation. Happy at this point to answer
17 any question.

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19 CHAIRPERSON DROMM: Okay, thank you.
20 We're going to hear from the other gentleman and then
21 we will come back to questions.

22 GLENN BORIN: Good morning members of the
23 Finance Committee. My name is Glenn Borin and I
24 appreciate this opportunity to speak to you on Intro
25 Number 1038, which would change the minimum assessed

1 value of income producing properties whose owners are
2 required to obtain an audit in order to be heard by
3 the New York City Tax Commission. I am an attorney
4 with the firm of Marcus and Pollack LLP, which
5 specializes in real estate tax matters and my
6 perspective on this issue is based on 12 years of
7 private practice representing taxpayers before the
8 Tax Commission and the courts and the previous 25
9 years of public service including service as counsel
10 to the Tax Commission. The current law was added by
11 Local Law Number 27 for 1973 and remains as it was
12 originally enacted. And as we've heard from the other
13 speakers, over 45 years inflation has expanded the
14 audit requirement from a small group of substantial
15 commercial properties to now cover a large group of
16 relatively small properties. This inadvertent
17 expansion of the requirement from what was originally
18 intended is not a sound policy. A tax law that
19 requires the tax payer to go out and hire a CPA
20 privately and pay for the audit is very unusual. We
21 don't require this in the income tax where the
22 owner's income statement directly determines the
23 amount of tax they pay. By contrast, although income
24 and expense statements from the owners are important
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2 to the property tax, they're not the final
3 determinate of what is paid in taxes. We first have
4 the Department of Finance's tentative assessment and
5 then the owners have the right to contest the
6 assessment before the Tax Commission and if the
7 matter is not resolved they are to go on to the
8 court. At each level of that process there's a
9 determination of market value which is appraisal of
10 real estate. An appraiser's and the people who, who
11 make the decision on review consider multiple facts
12 in making their determination of what the value of
13 the property is. The burden is on the tax payer to
14 show the Tax Commission why the taxpayer's estimate
15 of the market value is different from... and more
16 accurate than the Department of Finance's estimate.
17 In order to get that hearing before the Tax
18 Commission the owner has to certify the income
19 expenses for the property. The additional requirement
20 of this law is that if it's over a million dollars in
21 assessed value they also need a certification by the
22 CPA, that's the second certification on top of their
23 own certification. The CPA in order to give that
24 certification must conduct an audit for the period
25 covered by this statement which is usually the year

1 ending December 31st of the immediately previous
2 year. The statement has to be submitted no later than
3 March 24th so that allows less than 12 weeks from the
4 closing of the books by the owner of that property
5 until... it has to be audited, certified and filed
6 together with the owner's own certification. In
7 making its determination the Tax Commission does
8 certainly consider the income and expense statements
9 but it also has other information that is available
10 to it and things have changed a lot since 1973 in
11 that regard and in 86 the council adopted the law
12 that requires the RFPIE so that all owners have to
13 report their income and expenses to the Department of
14 Finance every year whether or not they seek to have a
15 review before the Tax Commission. In the 80's and
16 90's city council legislation expanded the hearing
17 period from a short period that ended May 25th to
18 more or less cover the entire year beginning with the
19 publication of the role in January. That has allowed
20 the Tax Commission the ability to ask for additional
21 information, whenever it finds the information
22 submitted by the taxpayer to leave them with
23 questions that they're uncertain about. So, many,
24 many owners of both large and small properties
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2 struggle with the filing deadline, the short time
3 period that they have to get this certification done
4 and cost is an issue certainly for the smaller
5 owners. For the larger owners they have the recourse
6 to go into court, they can bypass the Tax
7 Commission's review process if they don't have the
8 time to get this audit done. The small property owner
9 theoretically they can do the same but generally it's
10 not a practical option. So, small owners are
11 precluded from getting meaningful review, you have a
12 degradation of the quality of the assessments and of
13 the public's acceptance of the property tax itself.
14 The, the clients then... my firm are for the most part
15 owners of large properties and will not be affected
16 by this in any significant way however the... you know
17 the updating of this law is in the public interest
18 and I recommend its adoption. I'd be happy to answer
19 any questions that the Committee may have, and I
20 thank you for the opportunity to speak.

21 CHAIRPERSON DROMM: Alright, just off the
22 top of my head do you agree with the indexing?

23 GLENN BORIN: Yes, I, I agree with both
24 the concept of the indexing and the concerns of the
25 President of the Tax Commission has and I think that,

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2 you know certain... the, the primary goal here should
3 certainly be correcting the 45 years, that's water
4 under the bridge but if there's a mechanism that's
5 practically effective doing that going forward makes
6 sense.

7 CHAIRPERSON DROMM: Okay, thank you.

8 Council Member Grodenchik.

9 COUNCIL MEMBER GRODENCHIK: Thank you Mr.
10 Chairman. The President of the Tax Commission, Miss
11 Hoffman in her testimony today suggested... and I'm
12 looking for my numbers, I wrote them down and now I
13 can't find them, but she suggested that over 6,000
14 businesses might actually save money for this. And
15 Mr. Blond you had said that... in your testimony that
16 10,000 dollars is a, a reasonable number to expect to
17 pay a CPA to get these certified, is that... [cross-
18 talk]

19 PETER BLOND: I, I wouldn't describe it
20 as a reasonable number but it's... [cross-talk]

21 COUNCIL MEMBER GRODENCHIK: I didn't... I...
22 well I... [cross-talk]

23 PETER BLOND: It's, it's a number my
24 clients have heard all too often.

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COUNCIL MEMBER GRODENCHIK: Maybe not reasonable, maybe accurate number and it could go much higher... [cross-talk]

PETER BLOND: It's, it's unfortunately very... [cross-talk]

COUNCIL MEMBER GRODENCHIK: ...also... [cross-talk]]

PETER BLOND: ...accurate.

COUNCIL MEMBER GRODENCHIK: It would.. it could.. it's, it's possible that it could go much higher?

PETER BLOND: Yes, I mean understand that part of the cost, the higher end cost are also because many of these businesses never utilized a certified public accountant before and in order to have their paperwork alone in order for that level of an audit doing so in the time frame involved is, is equally as difficult as the cost and part of the cost is that sort of combat pay to that big house accounting firm to stop what they're doing and February and March of each year which I don't have to tell you is their busiest time as well, to take on a new client, they're not looking to do so on a loss leader basis.

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COUNCIL MEMBER GRODENCHIK: So, I

misspoke before Mr. Chairman, it's actually 18,296 businesses in the last year that we have information for but... so, the potential savings there is almost 200 million dollars for, for the property owners in this town.

PETER BLOND: I would add there are...

there are also some owners of property, long standing owners of property familiar with this rule and unable to pay it or have their books certified in the time frame involved and may not be protesting at this time.

COUNCIL MEMBER GRODENCHIK: Okay, I

appreciate that. And do you have an opinion on indexing versus, you know a, a regular set schedule that we would increase it 10,000 dollars a year or something like that... I, I understand that inflation is low now, but we don't know that that won't... you know we... I can remember inflation galloping along.

PETER BLOND: I think that setting it on

a, a certain incremental basis will have a problem over time for obvious reasons because let's say you set it at 50,000 and what 50,000 is relative to five million today in another ten years on a percentage

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2 basis the adjustments over time are going to trail
3 real inflation most likely. I think the easiest way
4 the indexing component to work in conjunction with
5 the Tax Commission concerns would be to use the
6 trailing, you know CPI figure and additionally round
7 up to the nearest 100,000 to avoid confusion over
8 what the benchmark is from year to year.

9 COUNCIL MEMBER GRODENCHIK: Okay, I thank
10 you both for your testimony, thank you for being here
11 today.

12 PETER BLOND: Thank you.

13 COUNCIL MEMBER GRODENCHIK: Thank you Mr.
14 Chairman.

15 CHAIRPERSON DROMM: Alright... [cross-talk]

16 PETER BLOND: If I may one more thing
17 just on, on behalf of the tax payers, we've been
18 waiting... they've been waiting for, for, for 45 years
19 for this but as, as President Hoffman eluded to if
20 this law does not get updated by the next, you know
21 month or two the reality is it will not be able to
22 assist taxpayers until 2020.

23 COUNCIL MEMBER GRODENCHIK: Well it's
24 our... my intention anyway, I hope it's the Chair's
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intention and the Speaker's intention to get this done quickly. Thank you.

CHAIR: Thank you and we're working very closely with Council Member Grodenchik to make this happen so... thank you both for coming in and I appreciate your time and commitment to this issue. Thank you.

GLENN BORIN: Thank you.

CHAIRPERSON DROMM: Okay. Alright, thank you and this was a pretty quick hearing, I think that we are done and with that we are going to adjourn at 11:16 in the morning. Thank you.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date

October 15, 2018