Legislation Details (With Text)

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Title: A Local Law to amend the charter of the city of New York, in relation to tax appeals and the creation of an office of administrative tax appeals composed of the tax commission and the tax appeals tribunal; and to repeal a provision of the charter of the city of New York relating to the tax appeals tribunal.

Sponsors: David I. Weprin, Vincent J. Gentile, Michael C. Nelson, Larry B. Seabrook, Kendall Stewart, Betsy Gotbaum, (by request of the Mayor)

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Date	Ver.	Action By	Action	Result
6/27/2007	*	City Council	Introduced by Council	
6/27/2007	*	City Council	Referred to Comm by Council	
9/19/2007	*	Committee on Finance	Hearing Held by Committee	
9/19/2007	*	Committee on Finance	Laid Over by Committee	
11/15/2007	*	Committee on Finance	Hearing Held by Committee	
11/15/2007	*	Committee on Finance	Amendment Proposed by Comm	
11/15/2007	*	Committee on Finance	Amended by Committee	
11/15/2007	A	Committee on Finance	Approved by Committee	Pass
11/15/2007	A	City Council	Approved by Council	Pass
11/15/2007	A	City Council	Sent to Mayor by Council	
12/5/2007	A	Mayor	Hearing Held by Mayor	
12/5/2007	A	Mayor	Signed Into Law by Mayor	
12/5/2007	A	City Council	Recved from Mayor by Council	

Int. No. 597-A

By Council Members Weprin Gentile, Nelson, Seabrook, Stewart and The Public Advocate (Ms. Gotbaum) (by request of the Mayor)

A Local Law to amend the charter of the city of New York, in relation to tax appeals and the creation of an office of administrative tax appeals composed of the tax commission and the tax appeals tribunal; and to repeal a provision of the charter of the city of New York relating to the tax appeals tribunal.

Be it enacted by the Council as follows:

Section 1. Chapter 7 of the charter of the city of New York is amended by adding a new section 150 to read as follows:

§ 150. Office of administrative tax appeals. There shall be an office of administrative tax appeals, which shall consist of the tax commission established by section one hundred fifty-three of this charter and the tax appeals tribunal established by section one hundred sixty-eight of this charter and shall provide staff and administrative assistance to such commission and such tribunal. The office of administrative tax appeals shall operate pursuant to a written agreement between the president of the tax commission and the president of the tax appeals tribunal, and shall be headed by a director appointed in accordance with such agreement. Such director may be the president of the tax commission or the president of the tax appeals tribunal or both. If there is no such agreement, such office shall provide staff and administrative assistance to such commission and such tribunal in accordance with the respective powers of such presidents.

§ 2. Subdivision a of section 153 of the charter of the city of New York, as amended by local law number 26 for the year 1973, is amended to read as follows:

a. There shall be within the office of administrative tax appeals a tax commission to consist of the president and six commissioners who shall be appointed by the mayor[,] for a term of six years, except the term of two commissioners first appointed pursuant to this section shall be two years, the term of the president and two additional commissioners shall be four years and the term of the remaining two commissioners shall be six years. Each commissioner shall have at least three years business experience in the field of real estate or real estate law. At least one resident of each borough shall be included among the commissioners.

§ 3. The opening paragraph of section 164 of the charter of the city of New York, as amended by local law number 77 for the year 1984, is designated subdivision a and amended to read as follows:

a. Between the fifteenth day of January and the twenty-fifth day of May, the tax commission may itself or by a commissioner or assessor thereunto authorized by the commission or any other person with

qualifications relevant to the review of real property tax assessments, including real estate and real estate law, as determined by the commission and consistent with state law, act upon applications, compel the attendance of witnesses, administer oaths or affirmations and examine applicants and other witnesses under oath. It shall make rules of practice for proceedings before the tax commission, and such rules and regulations as may be appropriate and expedient to the end that the taxpayers may have a hearing in the borough in which they reside or in which their property is located, except that all applications with respect to property indicated on the tax maps by identification numbers shall be heard by the tax commission sitting as a body at its main office.

§ 4. Section 165-a of the charter of the city of New York, as added by chapter 531 of the laws of 1982, is amended to read as follows:

§ 165-a. Notices of final determination on applications for owner-occupied residential property. On or before the last day provided by law for the rendering of the final determination of the tax commission pursuant to section one hundred sixty-five of this charter the tax commission shall mail to each applicant who has filed an application for the correction of the assessment of a one, two or three family residential structure, except such property held in a cooperative or condominium form of ownership, a notice of the tax commission's determination of his or her assessment. Such notice shall also contain the statement: "If you are dissatisfied with the determination of the New York city tax commission and you are the owner of a one, two or three family residential structure and reside at such residence, you may seek judicial review of your assessment either under title one of article seven of the real property tax law or under the small claims assessment review law provided by title one-A of article seven of the real property tax law." Such notice shall also state the last date to file petitions for judicial review and the location where small claims assessment review petitions may be obtained. Failure to mail any such notice or failure of the applicant to receive the same shall not affect the validity of the assessment.

§ 5. Subdivision a of section 168 of the charter of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

a. An independent tax appeals tribunal is hereby established. Such tribunal shall be within the [department of finance] office of administrative tax appeals established under [chapter fifty-eight] section one hundred fifty of this charter[, but the powers, functions, duties and obligations of the tribunal shall be separate from and independent of the authority of the commissioner of finance]. The tribunal shall have jurisdiction to hear and determine cases initiated by the filing of petitions protesting notices issued by the commissioner of finance, which give a person the right to a hearing, including but not limited to any notice of determination of tax due, of a tax deficiency, of a denial of a refund or credit application or of the refusal to grant, the suspension or the revocation of a license issued pursuant to chapter thirteen of title eleven of the administrative code, which notices relate to nonproperty taxes, excise taxes and annual vault charges imposed by the city, except those taxes and charges administered by the State of New York on behalf of the City of New York. For purposes of the preceding sentence, if the commissioner of finance fails to act with respect to a refund application before the expiration of the time period after which the taxpayer may file a petition for refund with the tribunal pursuant to subdivision (c) of section 11-529 or subdivision three of section 11-680 of the administrative code, such failure shall be deemed to be a notice of denial of a refund issued by the commissioner of finance pursuant to such subdivision. The tribunal shall review petitions and other documents submitted to it, hold hearings, and render decisions as provided in this chapter. In rendering its decisions on claims asserted by taxpayers or the commissioner of finance, the tribunal shall have the same power and authority as the commissioner of finance to impose, modify or waive any taxes within its jurisdiction, interest thereon, and any applicable civil penalties. In appeals in which the rules of the commissioner of finance are at issue, the tribunal shall have the power and authority to rule on the legality of such rules.

§ 6. Section 1504-a of the charter of the city of New York is REPEALED.

§ 7. Whenever pursuant to any provision of this local law functions, powers or duties are transferred from the tax commission or tax appeals tribunal to the office of administrative tax appeals, such functions, powers or duties shall be continued by the office of administrative tax appeals and such office shall

have power to continue any business, proceeding or other matter involving such transferred functions, powers or duties.

§ 8. The records, property and equipment of the tax commission and tax appeals tribunal shall be transferred and delivered to the office of administrative tax appeals consistent with the transfer of any functions, powers and duties from the tax commission and tax appeals tribunal to the office of administrative tax appeals.

§ 9. No existing right or remedy of any character shall be lost, impaired or affected by reason of the adoption of this local law.

§ 10. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or any agency or officer, shall be affected or abated by the adoption of this local law or by anything herein contained.

§ 11. Whenever pursuant to any provision of this local law functions, powers or duties are assigned to the office of administrative tax appeals that were exercised by any employee of the tax commission or tax appeals tribunal or any officer thereof, all such employees in the classified city civil service who were engaged in the performance of such function, powers or duties shall be transferred to the office of administrative tax appeals, without examination and without affecting existing compensation or pension or retirement rights, privileges or obligations of such officers and employees.

§ 12. This local law shall take effect January 20, 2008, or as soon as practicable thereafter as a transfer of functions may be effectuated pursuant to this local law and subdivision 2 of section 70 of the civil service law; provided, however, that any or all actions necessary to effectuate such transfer may be taken prior to such effective date.

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