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**COMMITTEE ON CONDEMNATION  
AND TAX CERTIORARI**

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Committee on Finance  
New York City Council  
250 Broadway  
New York, New York 10007

Re: Comments on New York City Council Proposed Int. No 906-A

To The Committee on Finance:

Good morning. I wish to commend the Finance Committee of the City Council for the excellent and hard work that shows in the latest redraft of Proposed Intro No. 906-A, dealing with requiring income and expense statements from property owners for tax assessment purposes.

Thank you for this opportunity to highlight a few areas in the proposal where further refinements would enhance fairness to the taxpaying public.

LIENS: Making the real property income and expense statement (RPIE) non-filing monetary penalty a lien upon the real estate is unfair to new owners and raises serious due process concerns. Requiring new owners to exercise “due diligence” to determine whether there has

been an RPIE non-filing ---in advance of DOF issuing its non-filing list---creates a burden that they may be unable to meet.

Consider that under the current proposal, DOF does not have to publish a non-filing list until February, some eight months after the proposed June 1<sup>st</sup> filing date for RPIE. By that time, any escrows or retained proceeds from a sale of the property may have been released to the seller. Similarly, the ability of a new purchaser to pursue remedies against or reimbursement from the seller may weaken, or become increasingly impractical, with the passage of time.

NON-FILER/DEFECT LIST: Given DOF's stated purpose of requiring RPIE data for assessment purposes, if the annual tentative assessment roll must be published by January 15<sup>th</sup>, DOF should be obligated to publish a non-filer/defect list much earlier than February 1<sup>st</sup>. Indeed it is in DOF's interest to obtain curative RPIE filings at a far earlier date.

There should be no technical issue in this day and age preventing DOF from generating a non-filer list the day after the RPIE filing deadline, showing what properties do not have RPIEs uploaded to their system. Also, there is no enforcement mechanism in the bill should DOF decline to publish the list. In fact, the bill provides that DOF's failure to publish does not prevent the imposition of penalties. An explicit, enforceable obligation on DOF to promptly publish a list, soon after the filing deadline and prior to publication of the next tentative assessment roll, will give property owners, mortgage servicers, banks, title companies, management companies and the rest of the real estate community the tools they need to avoid

inadvertent penalties and potential over-assessment, as well as to insure that DOF is provided with the information it claims to so sorely need.

EXCLUSIONS: The requirement to affirmatively file a given property's exclusion from RPIE is unfair and unnecessary. DOF already knows, for example, which properties it has assessed under \$40,000. The exclusion filing requirement will disproportionately affect smaller property owners, many of whom are not real estate professionals and perhaps less sophisticated. They are the last people who should be penalized for failing to provide DOF with information it already has access to. A property that is in fact entitled to an RPIE exclusion, whenever that is proven, should be treated as having incurred no penalty at all.

LOSS OF A TAX COMMISSION HEARING: There is no valid rationale to de-couple the statutory penalties from one another. Both the monetary penalty and the loss of a Tax Commission hearing are located in the same section of the RPIE law, and should be treated as operating together. The amendment waiving monetary penalties should an RPIE filing be made during the cure period should also include restoration of the right to a hearing. A particularly pointed example of the inequity of the current proposal can be seen in the case of a new purchaser. What basis can there be for denying redress on taxes to a first-time owner of a building?

Even as to existing owners, it is not necessarily the case that waiving the denial of a hearing in the event of a cure will encourage late filing. The overwhelming majority of property owners in New York City are law-abiding and organized people and companies seeking to run their businesses efficiently. It would seem unreasonable to assume that they would affirmatively decide to file late, at some time yet to be determined, at the expense of heavy penalties that would attach should they not cure within a very narrow window of time. The right to tax redress is very important to them and something they would not wish to forego lightly.

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I thank the Committee on Finance for extending its valuable time today.

Very truly yours,



Donald Liebman