

**COMMITTEE ON CONDEMNATION
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**REPORT OF THE COMMITTEE ON
CONDEMNATION & TAX CERTIORARI
PROPOSING AN AMENDMENT TO SECTION § 11-216 OF THE
NEW YORK CITY ADMINISTRATIVE CODE**

This report is respectfully submitted by the Committee on Condemnation and Tax Certiorari (the "Committee") of the New York City Bar Association. The Committee addresses issues relating to the statutory procedures for review and correction of assessed valuation of real property and for the condemnation of real property in New York City. The issue now being addressed concerns the cost and accessibility to meaningful administrative review of tax assessments by aggrieved property owners.

New York City Administrative Code § 11-216 (formerly known as NYC Adm. Code §E17-16.1, as added by Local Law 27 of 1973) states in part:

“b. No reduction shall be granted for an income-producing property unless there is submitted to the tax commission a statement of income and expenses in the form prescribed by the tax commission and which shall be, in the case of property valued at one million dollars or more certified by a certified public accountant...”

Simply put, owners of income-producing property (be it residential or commercial) whose assessed value exceeds \$999,999 are barred from obtaining property tax relief from the NYC Tax Commission, unless significant sums are spent for a CPA to conduct an audit and issue a report of their income and expenses from the operation of their property on Tax Commission prescribed forms, TC 201 and TC 309. This threshold of \$1,000,000 for requiring CPA certification to gain review at the Tax Commission is unfairly low in light of the enormous increase in property valuations since the \$1 million threshold was set in 1973. The threshold now serves as a tremendous burden on small property owners and businesses, as well as a discriminatory barrier to tax relief. According to the Consumer Price Index (CPI), in 2015 it would take \$5,286,000 to achieve the same buying power as \$1,000,000 had in 1973. [Source: CPI Inflation Calculator, Bureau of Labor Statistics, U.S. Department of Labor]. From an assessed value perspective, in 1973, real property with actual assessed values of \$1,000,000 or

more would have included sizable residential and commercial properties. In 2015, much smaller properties, such as six-story walkups and minor commercial buildings are assessed at over one million dollars. In addition, the cost of obtaining an audit and certified income and expense statement by a certified public accountant has increased significantly since 1973, precluding many building owners from obtaining substantive administrative review of their property tax grievances.

The Committee is, therefore, proposing that the actual assessed value of properties that are required to submit certified income and expense statement be increased from "one million dollars or more" to "three million dollars or more". We believe that this proposal is simply remedial in nature, and is a necessary step towards increasing the fairness in the New York City property tax system. The language of our proposed amendment to NYC Adm. Code § 11-216 is attached in Appendix A.

Please feel free to contact the undersigned with any questions.

Committee on Condemnation and Tax Certiorari
Donald Liebman, Chair

April 2015

APPENDIX A

PROPOSED AMENDMENT TO NYC ADMINISTRATIVE CODE § 11-216

§ 11-216 Reduction in assessments; publication. a. There shall be published annually in the City Record a list of all reductions in real property assessments granted by the tax commission identifying the name of the property owner, the address and the amount of reduction.

b. No reduction shall be granted for an income-producing property unless there is submitted to the tax commission a statement of income and expenses in the form prescribed by the tax commission and which shall be, in the case of property [valued at one] with an actual assessed value of three million dollars or more certified by a certified public accountant. The commissioner granting such reduction in assessment shall state in a short memorandum the basis upon which the reduction is granted.

c. In all cases where the reduction in assessment for the current year is for fifty thousand dollars or more, the concurrence of the president of the tax commission shall be required.