



Real Property Tax Assessment Alert

May 2009

Bond, Schoeneck & King, PLLC

New York

Albany ■ 518-533-3000
Buffalo ■ 716-566-2800
Ithaca ■ 607-330-4000
Long Island ■ 516-267-6300
New York City ■ 646-253-2300
Oswego ■ 315-343-9116
Rochester ■ 585-362-4700
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WITH REAL PROPERTY VALUES ON THE DECLINE AND WITH CHANGES TO THE EMPIRE ZONES PROGRAM, NOW IS THE TIME TO ENSURE THAT YOUR PROPERTY IS NOT OVER ASSESSED

The value of real property fluctuates with the economy, which in today's environment is ripe for tax savings. In the midst of this recession, as we have watched the unemployment rate climb to a twenty-five year high, the stock market drop to historic lows, and the housing market collapse, it is no surprise that residential and commercial property values across the country have dropped considerably.

In addition to the state of the economy, legislation also has the potential to impact property values. Of particular significance in New York State are the recent changes to the Empire Zone Program which was signed into law on April 7, 2009. The new legislation requires that **all** certified businesses be reviewed in 2009 to determine whether their Empire Zone certification should be retained or revoked. The loss of Empire Zone certification benefits including the real property tax credit, tax reduction credit, sales tax exemption, etc., could substantially reduce the business's real property value, not to mention increase the business's cost of operations. Reduced property values, coupled with increased operating costs and new obstacles to Zone certification are all

factors decreasing the marketability – and assessed value – of your real property.

All too often, local assessors do not have the time or the resources to keep up with these changes and in many cases rely on generalities or state-aided, formulaic approaches that can considerably diverge from actual values, resulting in the drastic over valuation of real property. If you believe your local assessor has over assessed your property, the only way to correct it is to launch a timely challenge to your assessment in the appropriate administrative and judicial forum. However, to exercise your rights in these forums, you must be knowledgeable of the applicable statutory procedures to secure possible tax savings to which you may be entitled.

Generally, assessors determine if real property is subject to taxation each March 1, which is known as the taxable status date. Assessors determine a property's taxable status by its present condition and ownership, which means its current use and not some future contemplated use. Once assessors determine a property's taxable status, they will assess the property based on

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the property's value as of the preceding July 1, known as the valuation date. Tentative tax rolls are filed each May 1, which is typically when property owners first learn of their assessments.

In order for property owners to challenge their assessments, they must file a grievance with their local Board of Assessment Review ("BAR"). Generally, "Grievance Day" is the fourth Tuesday in May, which this year is May 26. The BAR will then conduct hearings, after which it will determine final assessments, and the final assessment roll will be filed July 1. **Challenging your assessment adds value to your property – doing so now starts the necessary process of securing possible future (transferable) benefits for a potential buyer.** If you are not satisfied with the BAR's determination and you want to further challenge your assessment, you must commence a special proceeding in New York State Supreme Court within 30 days after the filing of the final assessment roll (usually July 31). **Failure to file a grievance by May 26 is fatal in challenging your assessment.** Please note that some municipalities have different deadlines, so it is imperative to know each municipality's procedures.

If you have any questions or would like to discuss this further, please contact us.

In Buffalo / Niagara Falls, call 716-566-2800 or e-mail:
Scott M. Philbin sphilbin@bsk.com

In the Capital District, call 518-533-3000 or e-mail:
Robert H. Feller rfeller@bsk.com
Stuart F. Klein sklein@bsk.com
Carl Rosenbloom crosenbloom@bsk.com

In Central New York, call 315-218-8000 or e-mail:
Kathleen M. Bennett kbennett@bsk.com
Kevin M. Bernstein kbernstein@bsk.com
H. Dean Heberlig, Jr. dheberlig@bsk.com
Rebecca M. Neri rneri@bsk.com
Joseph Zagraniczny jzagraniczny@bsk.com

In the Rochester Region, call 585-362-4700 or e-mail:
Timothy M. Fitzgerald tmfitzgerald@bsk.com

BS&K Tax Assessments, Condemnation & Property Valuation

Real Property Taxation

The value of real property and businesses fluctuates with the economy. However, municipal assessors do not always have the time or the resources to keep up with these changes and in many cases must rely on generalities or formulaic approaches that can considerably diverge from actual values. This results in challenges to real property tax assessments in administrative and judicial forums. Our Group has secured tax savings and/or tax rebates in the millions of dollars for private individuals, private corporations and public corporations.

We have addressed valuation issues associated with all types of property including private residences, domed stadiums, private lakes and lodges, reservoirs, mining operations, supermarkets, commercial rental property and businesses, a wide variety of industrial and manufacturing facilities, and utility properties. Our clients range from private individuals to several Fortune 500 companies. We have also had substantial experience with PILOT agreements, Empire Zones and related property tax agreements.

In our practice, we have substantial contact with real estate appraisers and engineering valuation consultants. We have appeared in numerous proceedings that regularly require appearances before assessors, boards of assessment review, judicial hearing officers, New York Office of Real Property Services, and the courts.

Property Valuation

Business mergers, sales and acquisitions often involve the transfer of buildings, land and equipment. Our Group is experienced in reviewing appraisals, conducting environmental due diligence, and negotiating and drafting purchase and sale agreements.