BOARD OF ASSESSMENT REVIEW

Training Manual and Reference Materials

for Local Government Officials

STATE OF NEW YORK

Andrew M. Cuomo, Governor

Provided by:

NYS Department of Taxation and Finance
Office of Real Property Tax Services
W.A. Harriman State Campus
Albany, New York 12227

March 2013

BOARD OF ASSESSMENT REVIEW
TRAINING MANUAL

IMPORTANT NOTICE

The New York State Office of Real Property Tax Services has produced this manual exclusively for training purposes. The information provided in this manual is not a substitute for an understanding of the laws, rules, and regulations governing the board of assessment review. This manual should not be cited as authority in any question of law.

Trainees are responsible for understanding and complying with the laws, rules and regulations governing the board of assessment review; therefore, all questions concerning the administration of the real property tax law should be referred to the county real property tax director or, where appropriate municipal attorneys *and, if necessary, in writing to the DTF - ORPTS Office of Counsel (Office of Real Property Tax Services, WA Harriman State Campus, Building 9 - Room 161, Albany, New York 12227 or at ORPTS.Legal@tax.ny.gov).*

Table of Contents

1. **Introduction – Overview of the Board of Assessment Review**
   Reasons for Training and Course Overview
   Role of the Assessor
   Role of the Board of Assessment Review

2. **Assessment of Real Property**
   Standard of assessment
   Ad valorem tax
   Three approaches to value

3. **Board of Assessment Review Profile**
   Profile
   Training and Certification

4. **Grievance Day Preparation**
   Responsibilities of the BAR and the Assessor

5. **Holding Grievance Hearings**
   Powers and Duties of the BAR
   Holding Grievance Hearings
   Fair Hearings

6. **Grounds for Complaints on Assessments**
   RP-524 Complaint on Real Property Assessment
   Grounds for Complaint

7. **Determinations of the Board of Assessment Review**

8. **Second Meeting of the BAR and Subsequent Complaint Routes for Taxpayers**
   Second Meeting
   Subsequent Complaint Routes for Taxpayers

APPENDIX Forms and Instructions

Form 523 – Notice of Disclosure of Interest
Form 524 – Complaint on Real Property Assessment
Form 525 – Notice of Determination

Excerpts from Opinions of Counsel Index
Exemptions Handout
Contesting Your Assessment in New York State

BOARD OF ASSESSMENT REVIEW TRAINING

FOREWORD

The real property tax is an ad valorem tax (that is, a tax levied on the basis of value). In the first instance, it is the local assessor who determines the taxable value of real property. As you may be aware, New York State Law requires all properties to be assessed at a uniform percentage of value each year.

Taxpayers who feel their assessments are unequal, excessive, unlawful or that their property is misclassified, have a right to have their assessments reviewed by the Board of Assessment Review, or, if necessary, by the courts.

You, as a member of the board of assessment review, have been vested with the duty and responsibility of hearing assessment complaints in the first instance. This includes exercising your judgment and discretion to render an impartial, objective determination on complaints of assessments brought before you. A statement of the reasons for the determination should be included in the determination.

When adjusting assessments, assessors should analyze all of the parcels within a community and adjust assessments where necessary to reflect market values. As a result of the analysis, assessments may: 1) remain the same, 2) be adjusted through the use of market trends, or 3) be adjusted based on physical inspection and reappraisal.

Some property owners whose assessments have been adjusted may believe that they have been "selectively reassessed." Selective reassessment occurs when a municipality is **not** conducting a systematic review of all the parcels, yet the assessments of specific parcels, various portions of an assessing unit, or certain types of property are changed **without regard to the relative uniformity of assessments within the municipality**.

To determine which assessments should remain unchanged or be reappraised and/or adjusted, the assessor must conduct a systematic analysis of **the entire municipality**. Review and analysis should be conducted routinely in order to maintain assessments at a uniform percentage of market value as required by law.

Because many municipalities now comply with State law by keeping assessments uniform **annually**, it is not unusual for the assessor's systematic analysis to indicate that some assessments should change while others should not. Thus, if a taxpayer claims his assessment should be reduced to the prior year's level solely because not all assessments were changed, this should not, in and of itself, provide the basis for a reduction. As long as the assessor is able to justify the assessment, the complaint should be denied.

The challenge put to BAR members is not a simple one, nor is the challenge put to assessors. The NYS Office of Real property Tax Services appreciates your joint efforts to ensure that all property owners are assessed fairly and accurately. We are confident that your fellow citizens will value your efforts, as well.

Unit 1 - Introduction

Overview of the Board of Assessment Review

Unit Importance	You and your fellow members of the Board of Assessment Review have been vested with the duty and responsibility of hearing assessment complaints in the first instance. To enable you to accomplish your responsibilities you need to have an understanding of the concepts, principles, tasks, techniques and processes of the Board of Assessment Review.
Unit Overview	This unit provides a brief overview of the course content, training benefits and obligations, roles and duties of Boards of Assessment Review and assessors.

Unit Objectives

By the end of this unit you will be able to

- Identify reasons for BAR training
- Relate your role with functions of the BAR and Assessor

Commonly used abbreviations	BAR	Board of Assessment Review
	NYS ORPTS	NYS Office of Real Property Tax Services
	EdS	Educational Services Unit (NYS ORPTS)
	RPTL	Real Property Tax Law

Lesson 1
Reasons for Training and Course Overview

Reasons for Training

You and your fellow members of the Board of Assessment Review (BAR) have been vested with the duty and responsibility of hearing assessment complaints in the first instance. You will be asked to exercise judgment and discretion to render an impartial, objective determination on assessment complaints brought before the board, including a statement of the reasons for the determination.

Initial appointees and reappointees to the BAR must attend a training session, taught by a county director of real property tax services, in order to participate in the hearing and determination of assessment complaints on grievance day (RPTL § 523(2)).

Annual attendance at BAR training is optional for those BAR members who are not initial appointees or reappointees. These BAR members may attend the prescribed training course or the supplementary course. No examination is given for either course.

Course Overview

This course has been developed to provide you with information pertinent to your role as a BAR member. The materials include information on the assessment process as well as detailed information on the Grievance Day process and requirements.

Overview of the Assessment Review Process

The real property tax is an ad valorem tax (that is, a tax levied on the basis of value). A distinguishing characteristic of this tax is that it is not merely a mathematical calculation, but is based primarily upon expert opinion and judgment as to the value of property. In the first instance, it is the local assessor who determines the taxable value of real property.

Assessors are required by law to assess all properties in each municipality at a uniform percentage of market value each year as per Real Property Tax Law Sections 301 and 305 (except New York City and Nassau County). This means that all taxable properties in your city, town or village must be assessed at market value or at the same uniform percentage of market value each year.

If taxpayers believe their property assessment is too high, it is recommended that they first discuss this with their local assessor. If, after their meeting, they are still dissatisfied, they have a right to file a formal complaint with the Board of Assessment Review by the filing deadline.

Taxpayers, who feel their assessments are unequal, excessive or unlawful or that their property is misclassified, have a right to have their assessments reviewed administratively, and, if necessary, by the courts. New York statues set forth the procedure to be followed by taxpayers who have a complaint about their real property assessments. The first step in the assessment review procedure is filing a timely written complaint with the board of assessment review. Taxpayers who are dissatisfied with the administrative determination made by that board may thereafter seek judicial review. In addition, certain residential homeowners may seek small claims assessment review.

Lesson 2
Role of the Assessor

Primary responsibilities of the assessor

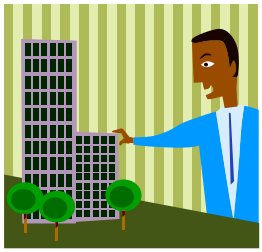
It is the municipal assessor who determines the taxable value of real property.

The primary responsibilities of the assessor are to:

1. Discover, list and place a value on all real property
2. Establish market value
3. Assess according to condition and ownership on taxable status date
4. Determine exemption eligibility

These will be covered in greater detail in unit 5.

Understanding the Role of the Assessor in relation to the BAR



It is important for you to realize that assessors are required by law, to complete and publish a tentative assessment roll, in most towns, on or before May 1. When the assessor signs the roll, he or she is signing an oath that the assessments are fair and equitable. They must also publish a notice that the roll is open for inspection. The notice must state the time and place where the board of assessment review will meet to hear complaints.

The assessor, or the assessor's designee in the case of an assessor employed by multiple assessing units, is required to attend all hearings of the board of assessment review, and has the right to be heard on any complaint and to have his or her remarks recorded in the minutes of the hearing.

When a complainant presents testimony and proof to support a complaint, the assessor should be called upon to present his or her side, and have the opportunity to explain the assessment of the property in question or recommend a change in the assessment if he or she feels there was an error in the assessment.

Complaints with respect to assessments may be filed with the assessor at any time prior to the hearing of the board of assessment review or with the board of assessment

review at such hearing, but may not be filed with the board of assessment review at any adjourned hearing it may conduct.

When a complaint is filed within three business days preceding the BAR hearing, the BAR must grant an assessor's request for an adjournment to permit the assessor adequate time to prepare a response to a complaint (RPTL, § 524).

Lesson 3
Role of the Board of Assessment Review

Understanding the Role of the BAR

The BAR constitutes what is known as a quasi-judicial body and the members of the board are charged with judicial responsibility to get all the facts, and apply appropriate laws and reasoning to the facts in a fair and judicious manner. Accordingly, each member of the board of assessment review should:

1. Possess judicial temperament, patience and tact.
2. Provide a fair hearing.
3. Safeguard the constitutional guarantees of due process of law.
4. Withdraw from a case where he/she deems themself disqualified by reason of personal or business relationships or interest.

Note: RPTL, § 523 (3) requires a BAR member with any direct or indirect interest in any property for which a complaint has been filed to disclose their interest.

Knowingly and intentionally failing to disclose such an interest can result in the imposition of a $1,000 fine for each omission. This is further reviewed in Unit 5.

Unit 2
Assessment of Real Property

Unit Importance

You as a board of assessment review member are obligated to get all of the facts and apply appropriate laws and reasoning to the facts. In gathering all of the facts you must understand that the real property tax is an ad valorem tax (that is, a tax levied on the basis of value). A distinguishing characteristic of this tax is that it is not merely a mathematical calculation, but is based primarily upon expert opinion and judgment as to the value of property. In the first instance, it is the local assessor who determines the taxable value of real property.

Unit Overview

While this lesson will not make you a professional assessor, it will provide you with a basic understanding of definitions, fundamentals and basic knowledge about which real property is subject to taxation, how it should be assessed, and the methods of valuing real property.

Unit Objectives

By the end of this lesson you will be able to

- Know the NYS Real Property Tax Law standard of assessment
- Understand the definition of “Ad Valorem Tax”
- Become familiar with the three approaches to value, which are:
    1. Cost,
    2. Market
    3. Income

Lesson 1
Assessment of Real Property

Standard of Assessment

Under New York State law, all real property is subject to taxation unless specifically exempted by statute (RPTL § 300).

Real property must be assessed according to its condition and ownership on taxable status date (RPTL § 302).

The standard of assessment prescribed by law is that all real property in each assessing unit be assessed at a uniform percentage of value (RPTL § 305(2)). Except in "special assessing units," (i.e., New York City and Nassau County) a property owner is entitled to a reduction in assessed valuation if his or her property is assessed at a higher percentage of value than the average percentage of value at which all property in that locality is being assessed. In special assessing units, which are required to establish separate tax rates for four classes of real property, a property owner is entitled to a reduction in assessed valuation if he or she can demonstrate that the property is assessed at a higher percentage of value than the average percentage of value at which other property in the same class is being assessed. An owner of one-, two- or three-family residential property, wherever located, is entitled to a reduction in assessed valuation, if the property is assessed at either a higher percentage of value than all real property on the assessment roll or a higher percentage of value than other residential property on the same assessment roll.

It is the municipal assessor who determines the uniform percentage of value in the absence of any affirmative action by the local legislative body. When a revaluation has been implemented, the legislative body of the assessing unit may direct the assessments be entered at something less than 100% (Opinion of Counsel #7-96).

The following example illustrates basic computations you should understand.

Example 1: If you are computing the percentage of value at which a single property is assessed, where that property has an assessed value(AV) of $200,000 and a market value(MV) of $400,000, you will apply the following formula:

a. $\frac{\text{Assessed Value (AV)}}{\text{Full Value(FV)}} = \text{\% of value}$

b. $\frac{\text{(AV)}\$200{,}000}{\text{(FV)}\$400{,}000} = 50 \text{ (\% of value)}$

c. By comparing the percentage of value of the example parcel with the uniform percentage of value of the municipality you can determine whether or not the example parcel is assessed equitably. In this case the town is assessing at a uniform percentage of value of 50%. Therefore, the example parcel is assessed equitably.

Ad Valorem (at value)

The New York State Real Property Tax is an **"Ad Valorem Tax." This means that the tax is based upon the value of the property.**

The real property tax is levied on the basis of the assessed value of the property -- which, in turn, is based on the market value of the property. The ad valorem concept of taxation does not include considerations that do not relate to finding the value of real property.

For example:
Is a taxpayer who claims he cannot afford to pay his taxes (because of age, ill health, income, etc.) entitled to a lower assessment?

No, because the real property tax is an ad valorem tax and is based on the assessed value of the property, not on the taxpayer's ability to pay.

In order for the property tax to be fair and equitable between properties, the assessed value assigned to a particular property and/or groups of properties must be as accurate as possible. In New York State, the value of real property is expressed in two ways:

1. Assessed Value
2. Full (Market) Value

Selective assessing is an illegal practice of assessing newly acquired property at a higher percentage of value than others. This "welcome stranger" method is illegal in favoring certain owners or properties over others.

Three Approaches to Value

The Three approaches to value are Cost, Market and Income. The **Market approach** (also called the sales comparison approach) uses sales prices as evidence of the value of similar properties. This is the preferred methodology for improved residential properties.

Where real property is of a type that is readily bought and sold, and the price that a willing buyer will pay a willing seller for the property can be determined from bona fide sales of similar property, the market determines the value of the property.

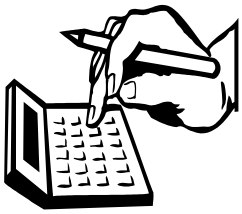
However, where the property is of a type that does not commonly change hands in an ordinary real estate market (for example, utility property, manufacturing property or other properties used for special purposes), other methods may be considered to determine value.

The **Cost approach** is based on the idea that the value of an existing property is the value of the land plus the replacement cost of the improvements less depreciation.

The **Income approach** is used most commonly for improved commercial property. This approach requires the appraiser to estimate the income from a property and capitalize the income into an estimate of current value.

The Assessor in your community is responsible for collecting information and calculating data to determine tentative assessments based on the use of the three standard approaches to value.

Adjusting Assessments



As you may be aware, New York State Law requires all properties to be assessed at a uniform percentage of value.

When adjusting assessments, assessors should analyze all of the parcels within a community and adjust assessments where necessary to reflect market values. As a result of the analysis, assessments may: 1) remain the same, 2) be adjusted through the use of market trends, or 3) be adjusted based on physical inspection and reappraisal.

Some property owners whose assessments have been adjusted may believe that they have been "selectively reassessed." Selective reassessment occurs when a municipality is **not** conducting a systematic review of all the parcels, yet the assessments of specific parcels, various portions of an assessing unit, or certain types of property are changed **without regard to the relative uniformity of assessments within the municipality**.

To determine which assessments should remain unchanged or be reappraised and/or adjusted, the assessor must conduct a systematic analysis of **the entire municipality**. As mentioned above, this review and analysis should be conducted routinely in order to maintain assessments at a uniform percentage of market value as required by law.

Because many municipalities now comply with State law by keeping assessments uniform on a regular basis, it is not unusual for the assessor's analysis to indicate that some assessments should change while others should not. Thus, if a taxpayer claims his assessment should be reduced to the prior year's level solely because not all assessments were changed, this should not, in and of itself, provide the basis for a reduction. As long as the assessor is able to justify the assessment, the reduction should be denied.

Unit 3

Board of Assessment Review Profile

Unit Importance	You have agreed to serve on your local board of assessment review. For you to be most effective in your position, you should have an understanding of the concepts, principles, tasks, techniques and processes of the BAR.
Unit Overview	This lesson provides definitions, fundamentals and basic knowledge about the specifics of BAR composition and commitments under the laws of New York State
Unit Objectives	By the end of this lesson you will be able to: • Understand BAR composition • Know Public Officers Law definitions • Relate to BAR terms of office • Develop knowledge of local government

Lesson 1
Profile

Composition and Terms of Office

The BAR must consist of not less than three nor more than five members (RPTL, §523(b)).

The majority of the board must consist of members who are not officers or employees of the local government. Members of the appointing authority (e.g., town board) may not serve on the BAR. Neither the assessor nor any of his or her staff may be appointed to the board.

In some villages which assess, the board of trustees and assessors constitute the board of review. If however, board of trustees opts to appoint an independent board of assessment review, no trustee may sit as a member of that board

Members are appointed by the legislative body for a five-year term of office.

- The terms of office must begin on October 1 and end on September 30, five years later.
- Terms must be staggered so that only one term expires each year.
- Persons appointed on a date other than October 1, to fill an unexpired term, serve until the September 30 on which that term ends.

Administrative Hearing Panels

There is a provision for the appointment of temporary members to the board of assessment review under section 523-a of the RPTL. The legislative body of any local government may, in any year it deems necessary, appoint temporary members to the board of assessment review to serve on administrative hearing panels.

An assessing unit's revaluation of assessments, which is often accompanied by a significant change in level of assessment, frequently prompts the filing of an unusually high number of complaints. To facilitate the volume of complaints, section 523-a of the Real Property Tax Law permits the assessing unit's appointing authority to appoint administrative hearing panels whenever it deems it appropriate to do so. The presence of these panels

permits the hearing of more than one grievance at a time.

The law authorizes assessing units to appoint up to two temporary members to boards of assessment review for each regular member on that board. In other words, six panel members may be appointed where there is a three member board, eight panel members where there is a four member board, and 10 panel members where there is a five member board. Three member panels are designated by the board chairman, each to consist of at least one regular member of the board and not more than two temporary members.

The temporary members serve for a one year term but are subject to the same qualifications, training and disclosure requirements as the permanent members of the board of assessment review. However, the temporary members must complete a training course within twelve months of the date on which complaints are to be heard.

The panels hear complaints in relation to assessments and have the same powers and duties as those granted to the board of assessment review, except that the panels only recommend final assessments to the board. In most cases, it is assumed that the board will adopt the panel's recommendations, but, if not, the board is required to hold a second hearing on the complaint, upon notice to the assessor and the property owner.

Questions concerning the administrative hearing panels option may be directed to ORPTS.

Lack of Quorum: State law (i.e., General Construction Law, §41) requires that where a power or duty has been assigned to three or more public officials (such as a board of assessment review), a majority of the whole number (that is, as if there were no vacancies) must meet and not less than a majority may act. So, for a three member BAR, two must be present at the hearing and two must agree if a tentative assessment is to be changed. For a four or a five member BAR, three is a quorum.

If the BAR fails to meet to hear complaints, perhaps due to the lack of a quorum, the law (RPTL, §527) provides that the county treasurer, chairman of the county legislative

body and clerk of the county legislative body shall serve as the acting board of assessment review. Obviously, these officials are unlikely to have the knowledge of local property values that BAR members are to possess nor are they likely to have attended BAR training. So, this stopgap procedure, though legal, should be avoided if at all possible. If a BAR member accepts appointment to that board, he or she should refrain from scheduling any event (e.g., vacation) which might occur during the time period when the BAR must meet and deliberate.

Qualifications

The Real Property Tax Law requires that members of the board of assessment review have knowledge of property values in the assessing unit.

Members of the board of assessment review constitute local public officers, and are required to be at least 18 years old, citizens of the United States and residents of the assessing unit which the board serves (Public Officers Law, section 3).

Oath of Office

Each member of the board is required to take and file an oath of office. Oaths of local public officers are filed with the clerk of the city or town in which the board serves. In counties having county assessment, oaths are filed with the county clerk. Failure to take or file in a timely manner the oath of office will result in the office being considered vacant (Public Officers Law, section 30).

Appointing a Chairperson

To facilitate the conduct of hearings and other business, the members of the board of assessment review should elect a chairperson from among themselves. Only the board of assessment review itself can designate its chairman.

Quasi-Judicial Body

The board of assessment review constitutes what is known as a quasi-judicial body and the members of the board are charged with judicial responsibility to get all the facts, and apply appropriate laws and reasoning to the facts in a fair and judicious manner. Accordingly, each member of the board of assessment review should:

1. Possess judicial temperament, patience and tact.

2. Provide a fair hearing.

3. Safeguard the constitutional guarantees of due process of law.

4. Withdraw from a case where he deems himself/herself disqualified by reason of personal or business relationships or interest (See page 4-5).

Where a BAR member has any direct or indirect interest in any property for which a complaint has been filed, he or she must disclose the interest. See Unit 5 - Disclosure of Interest.

Note: The board of assessment review **must conduct hearings <u>as a body</u>.** Its members are not authorized to divide the complaints among themselves.

Lesson 2
Training and Certification

Training and Certification

As an initial appointee or reappointee to the board of assessment review (BAR) you must attend a training session, taught by a county director of real property tax services. Without the appropriate training, you will not be able to participate in the hearing and determination of assessment complaints on grievance day.

If a new or reappointed BAR member cannot attend training due to reasons beyond his or her control, they can request an extension from NYS ORPTS Educational Services Unit (EdS). The extension, if approved, allows participation in the hearing and determination of complaints for the current year.

This request must be in writing and must be received by EdS at least 10 working days prior to grievance day. It must include specific information regarding the reason for not attending. This extension notice will be distributed by EdS to the BAR member with a copy sent to the county director, town or city clerk, town supervisor or city mayor, and assessor. It is expected that any BAR member granted an extension will attend the next available training session held in that county.

New or reappointed board of assessment review members who do not attend the training course, and who do not receive a notice of extension cannot be counted in determining whether a quorum is present at a meeting of the board of assessment review. Furthermore, such members may not participate in the hearing and determination of complaints.

The county director of real property tax services will conduct training session(s) and prepare a "certificate of attendance" for each board of assessment review member who attends the training session. Then, the county director will forward the class roster to NYS ORPTS, Educational Services, W.A. Harriman State Campus, Albany, NY 12227.

The county director will also file a copy of these certificates of attendance with the town or city clerk.

Unit 4
Grievance Day Preparation

Unit Importance	Your understanding of the concepts, principles, tasks, techniques and processes of conducting grievance day hearings will better prepare you for administering your role on grievance day.
Unit Overview	This lesson provides definitions, fundamentals and basic knowledge about the responsibilities and duties of the BAR and the assessor, including specified dates upon/by which functions must be performed or completed so that you will have an effective grievance day.
Unit Objectives	By the end of this lesson you will be able to: • Know the importance of being prepared • Relate to required meeting dates • Understand duties/ responsibilities of the BAR and the assessor • Develop a plan for conducting BAR hearings in a professional manner

Training of Board Members

Before grievance day, each member of the board must be certified as having attended the training course prescribed by the State Board, or must have received a notice of extension, as described in Unit 3 of this manual.

The board members should also familiarize themselves with the relevant laws and regulations pertaining to assessment administration, and have handy for reference copies of pertinent statutes and other relevant material to consult during the course of any grievance hearing (e.g., this manual, other ORPTS publications).

When is Grievance Day?

In most towns, grievance day is the fourth Tuesday in May.

- In certain counties (Westchester, Nassau, Suffolk), the dates vary and municipal attorneys should be consulted. In certain cities and villages, dates may vary and the corporation counsel should be consulted.

Governing boards of assessing units, which employ assessors who are also so employed by another assessing unit, may adopt local laws to reschedule the hearing of the board of assessment review to one or more days between the fourth Tuesday of May and the second Tuesday in June (inclusive). (RPTL, § 512(1-a)).

A quorum is essential to holding grievance day proceedings. Without a quorum the hearings cannot be held. A quorum is the majority of the whole number (that is, as if there were no vacancies) must meet and not less than a majority may act. So, for a three member BAR, two must be present at the hearing and two must agree if a tentative assessment is to be changed. For a four or a five member BAR, three is a quorum.

If the BAR fails to meet to hear complaints, perhaps due to the lack of a quorum, the law (RPTL, §527) provides that the county treasurer, chairman of the county legislative body and clerk of the county legislative body shall serve as the acting board of assessment review. If a BAR member accepts appointment to that board, he or she should refrain from scheduling any event (e.g., vacation) which might occur during the time period when the BAR must meet and deliberate.

Organizational Meeting

There are many administrative tasks that need to be accomplished prior to Grievance Day. These tasks can be accomplished by holding an organizational meeting with the entire board of assessment review.

What time are the hearings?
One of the first tasks is to establish, well in advance of grievance day, the place or places where grievance hearings will be held, and fix the hours of such hearings. The hearings must be for a period of at least four hours (not necessarily consecutive) between 9:00 a.m. and 10:00 p.m. At least two hours must be scheduled after 6:00 p.m. (RPTL, § 525 (1)).

Select a Chairperson
To facilitate the conduct of hearings and other business, the members of the board of assessment review should elect a chairperson from among themselves. Only the board of assessment review itself can designate its chairperson.

The chairperson's role is a combination of leadership and organizational talents. The chairperson will orchestrate the meeting: calling it to order, calling forward taxpayers, administering the oaths, maintaining order, and coordinating the scheduling of additional meetings.

Schedule a second meeting
The Board is required to meet at least 15 days after the filing of the final assessment roll to correct clerical errors, unlawful entries, errors in essential fact and omissions on the final assessment roll upon petition by the assessor. During the organizational meeting a tentative date for the second meeting can be selected. If there are not any petitions then no meeting would be required.

Administrative Tasks
The organizational meeting is a good time to coordinate some of the administrative tasks of the board of assessment review. The group can decide how to handle hearings, for example, should they be prescheduled. Another item to address is the secretarial duties for grievance day. Who will be handling the minute taking for the day? Will the hearings be recorded?

Meet with the Assessor
The board should arrange an informational meeting with the assessor, so the board can be generally acquainted with the tentative assessment roll, and the assessor's methods and techniques for valuing real property. Specific parcels should not be discussed.

The BAR should also be aware of a situation which might occur where the number of grievances may be overwhelming, for example during a community wide reassessment. For this situation an individual may be appointed to a hearing panel. The appointee is provided a one-year appointment that also includes a training obligation.

Contact the municipal attorney
The board should also confirm the availability of the town attorney/corporation counsel should their presence be required during the hearings.

Grievance Day Preparation by the Assessor

Prior to Grievance Day the assessor's office will be a busy place. The assessor is responsible for:

- Completing and publishing the tentative assessment roll
- Publishing public notice of grievance day locations and times
- Providing grievance forms to the public
- Receiving completed grievance forms and relaying those to the BAR on or before grievance day

Once the tentative roll is published, the assessor's office will be meeting with property owners to discuss their properties as well as handing out pamphlets and forms for Grievance Day. Completed grievance forms will be accepted at the assessor's office prior to grievance day.

Unit 5
Holding Grievance Hearings

Unit Importance

Section 525 of the RPTL outlines powers given to the board of assessment review for the hearing and determinations of complaints. You should understand the requirements and processes of holding Grievance Day Hearings.

Unit Overview

This unit will provide you with the fundamentals and basic knowledge about administering oaths, hearing testimony, taking/accepting proofs, taking minutes, filing disclosures, and voting rights of the board.

Your basic objective in conducting grievance day hearings is to seek out all the facts relevant to the complaint so that you will be able to render a fair decision. This may involve questioning the complainant or his or her witnesses, and/or questioning the assessor. In any event, your role is to see that all facts are presented fairly, and to conduct each hearing with this objective in mind.

This unit will provide you with the fundamentals and basic knowledge to conducting Grievance Day Hearings in accordance with the Open Meetings Law.

Unit Objectives

By the end of this lesson you will be able to:

- Understand the powers and duties of BAR
- Administer oaths
- Take testimony
- Record minutes of proceedings
- File necessary disclosures
- Understand how to conduct Grievance Day Hearings
- Know the Open Meetings Law as it pertains to Grievance Day Hearings
- Learn the Assessor's role regarding duties and attendance at Grievance Day hearings

Lesson 1
Powers and Duties of Board of Assessment Review

Administer Oaths and Affirmations

Pursuant to section 525 of the Real Property Tax Law, the board of assessment review has the express power to:

- Administer oaths and affirmations.
- Take testimony.
- Hear proofs.
- Require personal appearances of the complainant, his or her agent or any other person.
- Require complainant, his or her agent or other person to produce papers relating to the tentative assessment.
- Determine the final assessment of the real property of each complaint.

In most cases, the evidence that the complainant is aggrieved by the tentative assessment of his or her property should accompany the complaint filed with the assessor or the board. At the hearing, the complainant may provide supplemental information (additional documentation), oral testimony, or both.

In all cases information with respect to controverted factual matters, including supplement factual statements made in the complaint, should be supplied by the complainant or his or her witnesses. The complainant may use opinions of experts to support his or her claim.

When a complainant or witness gives oral or written testimony to support the complaint, the board may take such testimony under oath or by affirmation. This is required because it gives some assurance of truthfulness and correctness, and adds to the formality and decorum of the hearing.

The following form of oath or affirmation may be used as a model:

> *"Do you solemnly swear (or affirm) that the information you are about to give will be given accurately and truthfully to the best of your ability to do so?"*

Each person testifying is sworn in individually prior to making his or her statements. Once sworn in at a hearing, it is not necessary to swear a person in again at any subsequent adjourned hearing. However, a reminder to the person that he or she is still under oath would be appropriate.

The assessor, of course, may supply information in the form of written data or oral statements to support his or her determination as to the valuation or taxability of the property.

Hearing Testimony, Taking Proofs

It is not necessary that a complainant or his or her agent or representative make a personal appearance to give the board of assessment review jurisdiction to consider a complaint. Documents and other written material may be submitted by the complainant or the assessor, or witnesses called on behalf of either.

The board of assessment review must permit the following persons to testify if they so request. However, if circumstances warrant, the board may require a personal appearance, testimony and additional proof from:

1. The complainant, his or her agent or representative, or other persons.
2. The assessor
3. Witnesses for the complainant or the assessor

Letters requesting additional documentation should make clear that the taxpayer is not expected to produce documents which are not readily available or which are not relevant to determining the value of the property in question. The complainant should be given a reasonable deadline for submitting additional proof which may be after Grievance Day. (10 Op Counsel No. 80)

If, after the board so requests, the complainant, his or her agent or representative willfully neglects or refuses to appear personally before the board, or answer material questions, the complainant will not be entitled to any reduction of his or her assessment (RPTL, § 525 (2)).

Minutes of Hearing

Minutes of the proceedings at a hearing must be taken, and must be filed with the city, town or village clerk. The remarks of the assessor on any complaint must be recorded in the minutes if the assessor so requests. (Real Property Tax Law, section 525, subdivision 2).

The members of the board of assessment review are legally obligated to maintain records of their public meetings (Public Officers Law (POL) section 87(3)(a), 6Op. Counsel SBEA 125). The minutes must include the examination of every person examined upon the hearing of any complaint, a record or summary of all motions, proposals, resolutions and any other matter formally voted

upon and the vote thereon and, if requested by the assessor, any remarks made by the assessor with respect to the complaints filed.

The board, if it deems it necessary or helpful, may make stenographic or tape-recorded records. Where a large volume of testimony is involved, it is recommended that a written transcript be kept of the proceedings. If audio recordings are made, a log should also be maintained so as to facilitate locating discussions or particular parcels on the recording.

Disclosure of Interest

Board of assessment review members must file a disclosure form prescribed by the State Board of Real Property Services (RP-523-DCL) with respect to any property for which a complaint is filed in which the board member has a direct or indirect interest. He/she must file the form with the chief executive officer of the municipality on or before the date the board of assessment review submits its verified list of changes to the assessor. If the member intentionally fails to disclose a financial interest, he or she will be subject to a civil fine for each omission.

A board member is deemed to have a financial interest in property for which a complaint has been filed if the member, his or her spouse, or any of his or her minor children:

(1) is the owner of the property;

(2) is an officer, director, partner or employee of an entity which is an owner or lessee of the property;

(3) is an officer, director, partner, or associate of a law firm or real estate firm which has a financial interest with the owner or lessee of the property; or

(4) legally or beneficially owns or controls stock of a corporation which is an owner or lessee of such property, provided, however, that stock ownership does not constitute an interest where the stock is listed on a major stock exchange or is sold on the over-the-

counter market and the value thereof is less than $10,000.

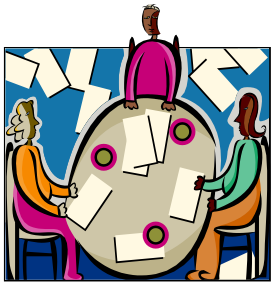
Recusal from Proceedings

The Attorney General has expressed an opinion that, as a member of the board of assessment review who files a complaint, you are obligated to recuse yourself from participating in board proceedings on that complaint. This recusal obligation is in addition to the requirement that the board member disclose their interest on form RP-523-DCL.

The Attorney General opinion also notes that a municipality may enact a local law to explicitly require recusal. The opinion does not address whether recusal is required where it is the board member's spouse or minor child who has the interest in the property, but prudence would indicate that recusal is appropriate here as well.

Lesson 2
Holding Grievance Hearings

Conducting an Open Meeting



In that New York State requires grievance day hearings be held in compliance with the Open Meetings Law (Public Officers Law, Art. 7), their location and physical accessibility which is barrier free is important.

The degree of formality of hearings will vary, depending on the respective boards and the localities they serve. But, in any event, the board of assessment review should choose a place for hearings that meets the following minimum requirements.

1. Separate from general office facilities of the municipality, preferably in a public hearing room;

2. Free from interruption or conduct of other business while hearings are in progress;

3. Equipped with essentials such as desks or tables and chairs for the board, the assessor and the complainants; and

4. Large enough to accommodate a number of people, <u>since hearings are open to the public</u>.

Be sure to contact local officials well in advance of the date of publication of notice of completion of the tentative roll, in order to explore what facilities will be available and reserve appropriate space.

In conducting hearings, you may find, for the convenience of complainants, it is necessary to arrange for adjourned hearing dates. Be sure facilities will be available if adjourned dates do become necessary.

After the hearings are finished, the board of assessment review must meet to make its final determinations. A place for this meeting of the board should also be arranged.

Seating Arrangements

The area selected must be fully accessible to the public, and large enough to accommodate the board, the assessor and a number of interested taxpayers. Of primary consideration is how the board arranges their own seating.

The space dedicated for board of assessment review proceedings should be utilized solely for that purpose. It is distracting if other business or services are being conducted simultaneously within sight or hearing distance of the hearing.

While there are many variations, the preferred seating plan suggests the chairperson at one end of the table and the property owner at the other end, with board members at either side of the table. The assessor should be seated at a separate table adjacent to the board table, which affords the assessor the opportunity for being heard by all parties.

Property owners not being heard may await their turn and listen to the proceedings while being seated away from the board and assessor tables.

Lesson 3
Hearings

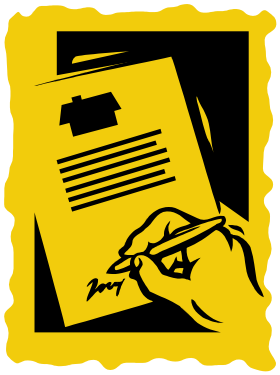
Keeping an Open Mind

The board, acting as a quasi-judicial body, should conduct the hearings in such a manner that all persons involved in the complaint have a full opportunity to make statements, present testimony and produce evidence. BAR meetings are not adversarial proceedings where formal rules of evidence apply.

Control of the hearing, questioning of the complainant, his or her witnesses and the assessors, and the order of proof taken, rests within the discretion of the board, and is largely a matter of exercising common sense in each situation.

Your basic objective in a hearing is to seek out all the facts relevant to the complaint so that you will be able to render a fair decision. This may involve questioning the complainant or his or her witnesses, or questioning the assessor. In any event, your role is to see that all facts are presented fairly, and to conduct each hearing with this objective in mind.

Complaint Requirements



The board of assessment review has jurisdiction to consider complaints in relation to assessments only in those cases where the complainant has filed a proper complaint on or before grievance day.

The law requires complainants to file a written statement, specifying the respect in which the assessment complained of is excessive, unequal or unlawful or that the property is misclassified (Real Property Tax Law, section 524, subdivision 3). The complaint must also specify the value of the property and the amount of reduction, or change in class designation sought and contain an estimate of the "value" of the real property for which the complaint is made, regardless of the grounds on which the complaint is made.

ORPTS has prepared complaint forms and instructions which it supplies to localities for use by the taxpayer. The form, "Complaint on Real Property Assessment" (RP-524, and RP-524-SAU for Nassau County), is required by

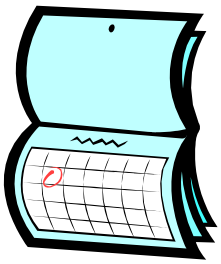
statute to be used. The form is acceptable if it specifies the value of the property, the grounds for complaint, the relief sought and the certification statement is signed by the owner or the owner's representative.

The complaint may be filed with the assessor prior to grievance day, or with the board of assessment review on or before grievance day. It is too late to file a complaint after the board concludes its hearings. Grievances may not be filed on adjourned hearing dates.

The complaint may be made by the aggrieved person, or by his or her attorney or representative. However, if a complaint is made by a representative of the complainant, a written authorization to allow the representative to appear on behalf of the complainant must be completed on the complaint form or filed there with, and bear a date within the same calendar year during which the complaint is filed.

Board members should remember that many taxpayers are not experienced in real property assessment administration, and when necessary, you should answer questions that will assist them in filing properly executed complaints that contain all of the necessary information to make a proper claim with respect to their grievance. However, it is not the job of the board or the assessor to fill out grievance forms for the taxpayer.

Adjourned Hearing Dates



The assessor may request an adjourned hearing if the complaint is received three or fewer business days before the scheduled grievance day hearing.

If either the complainant or the assessor is not prepared to supply information, supporting evidence or proofs, the board should set an adjourned hearing date to provide the complainant or the assessor the opportunity to present all facts concerning the assessment under consideration.

If all complainants cannot be heard on the scheduled grievance date, an adjourned hearing date or dates must be scheduled. Remember that new complaints cannot be accepted on an adjourned hearing day.

Open Meetings Law

In brief, the law gives the public the right to attend meetings of public bodies, listen to the debates and watch the decision making process in action.

What is a meeting?

Meeting is defined to mean "the official convening of a public body for the purpose of conducting public business." As such, any time a quorum of a public body gathers for the purpose of discussing public business, the meeting must be open to the public, whether or not there is an intent to take action, and regardless of the manner in which the gathering may be characterized. BAR hearings are open meetings.

Notice of Meetings

The law requires that notice of the time and place of all meetings be given prior to every meeting. Municipalities that have public websites must post notice of public meetings on the public website in addition to the traditional manner of posting and publicizing meetings (POL § 104(5), L.2009, ch.26).

When can a meeting be closed?

BAR meetings are subject to the Open Meetings Law. An analysis of the requirements of the Open Meetings Law and how it applies to BAR meetings can be found in a published opinion letter by the Executive Director of the Committee on Open Government (OML-AO-4043). The BAR meeting must be open to the public, minutes kept and the presentation of the complainant and the comments of the assessor must be made at the open portion of the meeting.

The BAR, if it wishes, may hold a closed executive session to consider the complaints and supporting documentation and to deliberate. The general public and the complainant are excluded from this executive session, as well as the assessor.

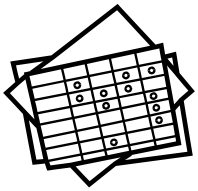
The assessor may not make additional comments to the BAR in the closed session of the BAR. When the BAR has concluded its deliberations, whether in executive session or in the open session, the actual voting must be done in an open meeting and minutes taken.

Unit 6
Grounds for Complaints on Assessments

Unit Importance	You will need to understand the concepts, principles, tasks, techniques and processes of determining the grounds for filing complaints with the board of assessment review so that proper determinations can be rendered.
Unit Overview	This lesson provides definitions; fundamentals and basic knowledge about the complaint form, conducting hearings, the four legal grounds for an assessment complaint, complaint filing procedures, and burden of proof.
Unit Objectives	By the end of this lesson you will be able to: • Know the complaint form format • Learn complaint filing procedures • Understand the (4) legal grounds for complaint

Lesson 1
RP-524
Complaint on Real Property Assessment

Complaint Form



The law requires complainants to file a written statement, specifying how the assessment complained of is excessive, unequal or unlawful or that the property is misclassified (RPTL § 524 (3)). The complaint must also specify the value of the property and the amount of reduction or change in class designation sought and contain an estimate of the "value" of the real property for which the complaint is made, regardless of the grounds on which the complaint is made.

ORPTS has prepared complaint forms which it supplies to localities for use by the taxpayer. The form, "Complaint on Real Property Assessment" (RP-524, NYC and Nassau County prescribe their own complaint forms), is required by statute to be used. The form is acceptable if it specifies the value of the property, the grounds for complaint, the relief sought and the certification statement is signed by the owner or representative. The statement reads as follows:

> "I certify that all statements made on this application are true and correct to the best of my knowledge and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false instruments."

The complaint may be filed with the assessor prior to Grievance Day or with the board of assessment review on Grievance Day. After the board concludes its hearings it is too late to file a complaint. Grievances may no longer be filed on adjourned hearing dates.

The complaint may be made by the aggrieved person, or by his or her attorney or representative. However, if a complaint is made by a representative of the complainant, a written authorization to allow the representative to appear on behalf of the complainant must be filled in on or with the complaint form and bear a date within the same

calendar year during which the complaint is filed.

Board members should remember that many taxpayers are not experienced in real property assessment administration, and when necessary, you should answer questions that will assist them in filing properly executed complaints that contain all of the necessary information to make a proper claim with respect to their grievance. However, it is not the job of the board or the assessor to fill out grievance forms for the taxpayer.

Lesson 2
Grounds for Complaint

Grounds for Complaint

The law requires complainants to file a written statement, specifying the respect in which the assessment complained of is:

- **Unequal**
- **Excessive**
- **Unlawful**
- **Misclassified**

Unequal Assessment

When an unequal assessment or inequality is claimed, there are two issues for the complainant to prove and for the board of assessment review to resolve:

1. The value of the complainant's property.
2. The average ratio of assessed value to market value for the assessing unit (that is, the percentage of value at which all property on the average is assessed, or in a special assessing unit, the percentage of value at which all property in the same class on the average is assessed).

Except in special assessing units, if the property of a taxpayer is assessed at a higher percentage of value than the average of all other properties on the same assessment roll, the taxpayer should file a complaint on grounds of an unequal assessment. In a special assessing unit, a taxpayer may file a complaint on the grounds of an unequal assessment only if the property is assessed at a higher percentage of value than the average of all other properties in the same class on the same assessment roll.

When the complainant specifies that the assessment is unequal and the property assessed is improved by a one-, two- or three-family residence (other than a condominium), regardless of where the property is located, an unequal assessment means either: (a) that the property is assessed at a higher proportion of value than other residential property on the same roll; or (b) that the property is assessed at a higher proportion of value than all real property on the same roll.

Excessive Assessment

If the assessed valuation is greater than the full (market) value of the parcel of property, the taxpayer should complain on the ground that the assessment is excessive.

1. Overvaluation
   By constitutional mandate, assessments shall not, in any case, exceed full value (New York State Constitution, Article XVI).

Proof: The complainant must establish the full (market) value of the parcel.

2. Incorrect Partial Exemption
   If a taxpayer has been denied all or a portion of a partial exemption to which his or her property is entitled, the taxpayer should complain on the ground that the taxable assessment is excessive.

Proof: The complainant must establish that all statutory eligibility requirements are satisfied or that the assessor's computation of the exempt amount is incorrect. If the taxpayer did not file the appropriate form by the appropriate date then their complaint should be dismissed. Failure to complete the application form on time does meet the statutory eligibility requirements.

3. Excessive Transition Assessment
   (Applicable only in Approved Assessing Units that have adopted transition assessments). Approved assessing units may adopt a system of transition assessments to phase in over five years all increases and decreases in assessed value resulting from a revaluation (RPTL § 1904). If an approved assessing unit has adopted transition assessments and a taxpayer believes that the transition assessment for his or her property has been improperly calculated, the taxpayer should complain that the assessment is excessive.

Proof: The complainant must establish that the transition assessment was incorrectly computed.

4. Incorrect Assessment Limitation
   (Applicable only in Special Assessing Units)

Special assessing units are required to observe limitations on permissible increases in assessed value. These limitations do not apply to changes in assessed value attributable to: (a) new property; (b) additions to or improvements in existing property; (c) fire; (d) demolition or destruction; and (e) changes in taxable status.

The limitations for class one differ from those governing classes two, three and four.

Class one:

The current assessment may not exceed last year's assessment by more than 6% and cannot be increased in any five-year period by more than 20%, with the first five-year period measured from the 1980 assessment roll. If the 1981 assessment exceeded the 1980 assessment by more than 20%, the assessment must be computed in accordance with a statutory formula that will usually result in an actual assessment lower than the 1981 assessment.

Class two, three and four:

Transition assessments must be established to phase in increases in assessed value over five years.

If a taxpayer in a special assessing unit believes that the assessment limitations have been incorrectly applied to his or her property, the taxpayer should complain on the ground that the assessment is excessive.

Proof: The complainant must establish that the applicable assessment limitation was incorrectly applied.

Unlawful Assessment

Generally, an unlawful assessment is one where the assessor has no authority or jurisdiction to make the assessment.

The following summarizes the various situations in which the claim of unlawful assessment may be raised:

1. The property is outside the assessing unit, or outside the school district or special district in which the real property is designated as being located.

   The jurisdiction of an assessor is confined to the physical boundaries of the assessing unit. If a parcel of property is totally outside the boundaries of the assessing unit, the assessor has no authority to assess it. If part of the parcel is located inside the boundaries of the assessing unit, the assessment would not be unlawful (the question becomes one of the value of the portion of the property located within the assessing unit).

Proof: The complainant must prove that the property in question is not located within the boundaries of the assessing unit, or within the school district or special district designated on the assessment roll. (Also correctable error RPTL § 550(7)(b))

2. The property cannot be identified from the description on the assessment roll.

   Description may be by name of abutting property owners, or by recorded tax map designation.

Proof: The complainant must prove that the property description on the assessment roll does not permit identification of the assessed property.

3. The property is wholly exempt.

   Certain real property of not-for-profit organizations, certain agencies and other classes of property may be wholly exempt by statute from the real property tax.

This is not the proper ground for complaint where the complainant is seeking review of a partial exemption such as a veteran's or senior citizen exemption. Those complaints are excessive.

Proof: The complainant must prove the property satisfies all statutory requirements to be wholly exempt.

4. The property was assessed by a person or body without the authority to make the assessment.

Proof: For example, the complainant must prove that the assessment was entered on the assessment roll by one member of the board of assessors without the approval of a majority of the board.

5. The property is a special franchise property and the assessment exceeds the final assessment established by the State Board.

Proof: The complainant must submit a copy of the certification of final assessment issued by the State Board.

Misclassification

(Relevant only in Approved Assessing Units which establish homestead and non-homestead tax rates and in Special Assessing Units)

Approved Assessing Units

Cities, towns and villages certified by the State Board as approved assessing units may elect to establish separate tax rates for homestead and non-homestead real property.

The homestead class includes:

- one-, two-, or three-family residential parcels
- residential condominiums
- mixed use parcels (i.e., used in part for residential purposes and in part for nonresidential purposes), if the primary use is residential
- mobile homes and trailers, only if they are owner-occupied and separately assessed
- all vacant land parcels, not exceeding ten acres,

which are located in an assessing unit that has a zoning law or ordinance in effect, provided that such parcels are located in a zone that does not allow a residential use other than for one-, two- or three-family dwelling residential real property
- farm dwellings
- all land used in agricultural production that is eligible for an agricultural assessment pursuant to section 305 or 306 of the Agriculture and Markets Law if the owner has filed an annual application for an agricultural assessment
- all farm buildings and structures as defined in RPTL, § 483(3), located on such land used in agricultural production.

The non-homestead class includes all other real property (e.g., commercial, industrial, special franchise and utility property, and some vacant land).

Special Assessing Units

Special assessing units, namely New York City and Nassau County, must classify all real property into four classes and establish a tax rate for each class. The classes are defined as follows:

Class ONE: This class includes all one-, two- or three-family residential parcels and some condominiums. Mixed-use parcels (i.e., used in part for residential purposes and in part for non-residential purposes) qualify if the primary use is residential. Mobile homes and trailers qualify only if they are owner-occupied and separately assessed. Most condominiums and all co-operatives are specifically excluded from class one.

Class TWO: This is defined as all other residential real property which is not in class one, except hotels, motels and similar commercial property.

Most condominiums and all co-operatives are included in class two.

Class THREE: Utility real property. "Utility real property" means the real property, including special franchises, of

persons and corporations subject to the supervision of the Public Service Commission, the State Commission on Cable Television, the State Department of Transportation, or any other Federal or State regulatory agency, used in the generation, storage, transmission, distribution or sale of gas, electricity, steam, water, refrigeration, cable television, telephone or telegraph service, delivered through mains, pipes, cables, lines or wires.

Class FOUR: All other real property not in class one, class two, or class three (e.g., commercial and industrial property, vacant land).

Claims of Misclassification
In either approved assessing units or special assessing units, there are two possible claims of misclassification.

1. A parcel has been designated in the wrong class on the assessment roll.

   For example, in an approved assessing unit, a single family house on a one acre lot is designated as non-homestead property.

Proof: The complainant must prove that the property is used primarily for residential purposes.

2. The allocation of a parcel's total assessed value between classes is incorrect.

   For example, assume that a 100-acre parcel is located in an approved assessing unit and is assessed for $50,000. The Assessor allocated $20,000 of that amount to the residence and surrounding 10 acres (homestead), the other $30,000 allocated to the remaining 90 acres (non-homestead). The complainant believes that the $50,000 total assessment is correct but contends that the residence and 10 acres are worth one-half of that total, or $25,000. (The question of allocation will be significant because of the different tax rate for the homestead and non-homestead classes.)

   In this case, the taxpayer may claim that the property is misclassified and request that the

assessed value be allocated equally between the residence and surrounding 10 acres, and the remaining 90 acres.

If the complainant is contesting only the allocation without seeking review of the total assessed value, only the "Misclassification" claim need be raised. However, if the taxpayer believes that the assessment is unequal or excessive and the allocation between the homestead and non-homestead parts is incorrect then he or she should complain on the grounds that the property is misclassified and that the assessment is unequal or excessive. Using the same example as above, if the taxpayer claims that the total assessed value should be reduced from $50,000 to $35,000, he or she must show an allocation of the $35,000 between the homestead and non-homestead shares.

Proof: The complainant must show the proper allocation of assessed value.

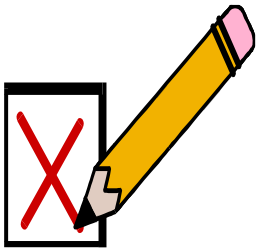
After the board of assessment review has heard all statements and testimony, and received whatever proof has been submitted, it must decide whether the assessment complained of is excessive, unequal or unlawful or whether the property is misclassified.

Unit 7
Determinations of Board of Assessment Review

Lesson Importance	Understanding the concepts, principles, tasks, techniques and processes of how determinations are made, evidence weighed and decisions rendered by the board of assessment review.
Lesson Overview	This lesson provides definitions, fundamentals and basic knowledge about the procedures to be followed when making a final determination on a complaint.
Lesson Objectives	By the end of this lesson you will be able to • Understand the decision making process • Follow sequential steps of the process • Make logical and legal determinations • Prepare required notification forms • Act as a body, bring closure to each case

Lesson 1
Determinations of Board of Assessment Review

Making Determinations



After the board of assessment review has heard all statements and testimony, and received whatever proof has been submitted, it must decide whether the assessment complained of is excessive, unequal or unlawful or whether the property is misclassified.

The board of assessment review is required to act as a body. The board, or a majority of the board, must make a final decision on each complaint properly and timely filed. As the facts warrant, the board may lower the assessment, or leave the assessment unchanged (RPTL § 525(3)).

If the board of assessment review decides that the assessment is unlawful, it must order the assessment removed from the roll or, where appropriate, entered on the exempt portion of the roll.

If the board decides that property is misclassified, it must order that the property class designation or allocation of assessed value be entered on the assessment roll.

The board should not make an immediate "on the spot" decision on the complaint under consideration. The chairman should advise the complainant that the board will consider the matter and advise him or her of their final decision.

Open Meetings Law

BAR meetings are subject to the Open Meetings Law. An analysis of the requirements of the Open Meetings Law and how it applies to BAR meetings can be found in a published opinion letter by the Executive Director of the Committee on Open Government (OML-AO-4043).

The BAR meeting must be open to the public, minutes kept and the presentation of the complainant and the comments of the assessor must be made at the open portion of the meeting.

The BAR, if it wishes, may hold a closed executive session to consider the complaints and supporting documentation and to deliberate. The general public and the complainant are excluded from this executive session, as well as the assessor.

The assessor may not make additional comments to the BAR in the closed session of the BAR. When the BAR has concluded its deliberations, whether in executive session or in the open session, the actual voting must be done in an open meeting and minutes taken. The vote on each complaint must be recorded (See RP-524, RP-525).

A majority of the board of assessment review must make the final decisions on the complaints. If for some reason a member of the board was not present at the hearings, they may still vote, provided he or she reviews the minutes, testimony and proofs taken so that he or she is familiar with each complaint being considered.

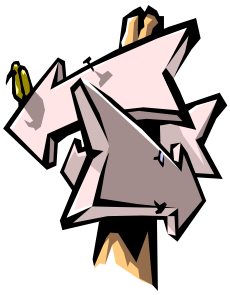
Prior to Grievance Day taxpayers may meet with the assessor to discuss their assessment. If the assessor agrees with taxpayer and believes that the assessment should be changed then both the assessor and the taxpayer stipulate to that agreement.

Ratifying Stipulations

The law requires that the assessment grievance form (i.e., RP-524) include a section whereby an assessor and taxpayer (or his or her representative) may stipulate in writing to an agreed upon assessment of the taxpayer's parcel. The board of assessment review is expected to ratify any such stipulations. The BAR need not mail a notice of its determination to a taxpayer who has stipulated to his or her assessment.

As long as the BAR ratifies the stipulation, and the agreed upon value appears on the final assessment roll, no judicial review of the parcel's assessment would be permitted. However, if the BAR refuses to ratify a properly executed stipulation, a mandamus proceeding could be brought against the BAR. A court would then decide whether the BAR's refusal to ratify was justified (10 Op. Counsel SBRPS No. 89).

Burden of Proof



The presumption under the law is that the assessor has properly done his or her job and that the assessment is correct.

The burden of proof is always on the complainant to overcome this presumption that the assessment is correct, and the complainant must present convincing evidence that the assessor's judgment was incorrect. The submission of a grievance complaint form alone does not necessarily prove that an assessment is incorrect. The complaint form represents that the complainant believes the assessment is in error. If no proof or evidence is submitted to support this belief, the legal presumption that the assessment is correct and accurate must be upheld.

Appraisals, comparable sales listings, purchase price or building costs, etc., can all be presented as proof that the assessment is incorrect. If the complainant does provide convincing evidence that supports the assessment being incorrect then the BAR should direct the assessor to change the tentative assessment to reflect the more correct and accurate value.

Assessor's Role

The assessor, or the assessor's designee in the case of an assessor employed by multiple assessing units, is required to attend all hearings of the board of assessment review, and has the right to be heard on any complaint and to have his or her remarks recorded in the minutes of the hearing (RPTL, § 525 (2), 526 (4)). When a complaint is filed within three business days preceding the BAR hearing, the Board must grant an assessor's request for an adjournment to permit the assessor adequate time to respond to a complaint (RPTL § 524).

When a complainant presents testimony and proof to support a complaint, the assessor should be called upon to present his or her side, and have the opportunity to explain the assessment of the property in question or recommend a change in the assessment if he or she feels there was an error in the assessment.

Taxpayers and assessors may stipulate to an assessed value, obviating the need for administrative or judicial review of such value (amended RPTL, §§524(3), 525, 527).

The law requires that the assessment grievance form (i.e., RP-524) include a section whereby an assessor and taxpayer (or his or her representative) may stipulate in writing to an agreed upon assessment of the taxpayer's parcel. The board of assessment review is expected to ratify any such stipulations.

Weighing the Evidence

The primary duty of the board of assessment review is to decide whether the assessment of the property in question is proper and equitable.

This does not mean that the board should reappraise the property. There should not be any reason, except in the most unusual cases, for the board to physically inspect or view the property.

It does mean that the board must decide (a) whether the complainant has supported his complaint with evidence to indicate the assessor made a mistake in the assessment, or (b) whether the assessor's determination of the assessment was correct.

The board of assessment review should consider at least the following:

1. Has the complainant filed a timely and proper complaint?

2. Has the complainant clearly stated the facts on which the complaint is based?

3. Has the complainant presented sufficiently detailed evidence to support his or her claim?

4. Has the assessor actually viewed the property in question?

5. Has the assessor presented any facts or evidence to explain the assessment complained of?

Evidence to be used as proof

Unequal Assessment

If the complainant claims that the assessment is unequal, he or she must show:

1. the value of the property; and

2. the applicable ratio:

   (a) Generally. Except in a special assessing unit, the complainant must show the average percentage of value at which all properties are assessed. In a special assessing unit, the complainant must show the average percentage of value at which all properties in the same class are assessed.

   (b) One-, two- or three-family residential property. The complainant must show either the average percentage of value at which all properties are assessed or the average percentage of value at which residential properties are assessed.

Where a complainant has established the market value of the property (for example, the recent purchase price of the property) and the applicable ratio, the presumption of the validity of the assessment is overcome.

The assessor must then justify the assessment placed on the property. If the assessor cannot rebut the complainant's proof, the board of assessment review grants relief to the complainant in the amount justified by the complainant's proof.

Excessive Assessment

1. Overvaluation. If the complainant proved the assessment is higher than the full (market) value of the property, he or she is entitled to a reduction to the full (market) value.

2. Incorrect Partial Exemption. If the complainant has asked for a reduction in the assessment because a partial exemption (e.g., veteran's, senior citizens) was denied by the assessor, the board should consult the exemption information in the booklet: "Exemptions from the Real Property Tax." Any legal questions should be referred to the town attorney or corporation counsel.

3. Excessive Transition Assessment (Approved Assessing Units only). If the complainant proved that the transition assessment is excessive, he or she is entitled to a reduction.

Incorrect Assessment Limitation (Special Assessing Units only). If the complainant proved that the applicable assessment limitation has been incorrectly applied, he or she is entitled to a correction and any resulting reduction.

Unlawful Assessments

If the complaint claims that the assessment is unlawful, the complainant must clearly show one of the following:

1. The entire parcel of property is not located within the boundaries of the assessing unit, or within the boundaries of a school district or special district as designated on the assessment roll.

2. The property cannot be identified from the description on the assessment roll. The board should request the assessor to obtain an adequate description and to ask the appropriate county legislative body to enter an adequate description before the next assessment roll.

3. The property is wholly exempt from taxation. The

board should ask the town attorney or corporation counsel for advice on this matter.

4. The property was assessed by someone other than the assessor or majority of the board of assessors.

5. The property is special franchise property and the assessment exceeds the final assessment established by the State Board.

Misclassification (Approved Assessing Units and Special Assessing Units only)
If the complainant claims that real property is misclassified, he/she must clearly show one of the following:

1) The use of the property is such that the class designation appearing on the assessment roll is incorrect.
2) The total assessed value is improperly allocated between classes.

Final Determination

After the board of assessment review has made its determination on each complaint before it for review, it has a statutory duty to notify the complainant of the board's final determination of the complaint and the reasons for the determination (RPTL § 525 (4)). The Board's vote on the complaint should be indicated as well on FORM RP-525.

Notify the Complainant

This notice is to be sent on or before the date the board delivers to the assessor the verified statement of changes, if any, to be made to the tentative assessment roll as determined by the board. The notice must contain the following statement:

"If you are dissatisfied with the determination of the Board of Assessment Review, you may seek judicial review of your assessment pursuant to article seven of the Real Property Tax Law. If you are the owner of a one-, two- or three-family residential structure and reside at such residence, or if you are the owner of unimproved property which is not of sufficient size as determined by your assessing unit to contain a one-, two-, or three-family residential structure, you may seek small claims assessment review pursuant to title one-A of article seven of the Real Property Tax Law."

Note: When filling out the RP-525 Notice of Determination, it is important to complete the form in its entirety. The complainant would like to know why their property was not reduced as requested. A complete and accurate RP-525 form will help to alleviate many of these questions.

Instructions for completing the RP-525 can be found in the appendix of this manual or on the ORPTS website at: www.tax.ny.gov/pdf/current_forms/orpts/rp525ins.pdf

List of Assessment Changes

After the board of assessment review has made its final determinations and mailed notice of its determination to each complainant, a majority of its members must prepare and verify a statement showing the assessment changes. The changes to be made to the tentative assessment roll must be listed and verified by the board or a majority of the board. Verification means to declare under oath or upon penalty of perjury that the statements made are true. The verification should be located at the end of the document

listing the assessment changes.

This verified statement must be notarized and delivered to the assessor on or before the date required by law for completion of the final assessment roll, or such other date specified by applicable law (RPTL § 525(4)).

In most towns, the last date for the filing of the final assessment roll is July 1 (RPTL § 516). The last date for the filing of the final assessment roll may vary in towns in the counties of Monroe and Westchester, and town attorneys should be consulted. In cities and villages, the dates may vary, and corporation counsel should be consulted. In Nassau and Tompkins counties, the county attorney should be consulted.

Judicial Review

Petitions for judicial review must be filed within 30 days after the final completion and filing of the final assessment roll containing the assessment. An assessment roll is not considered finally completed until the last day set by law for the filing of such final assessment roll or until notice of such filing is published, whichever is later.

The notice must also state where the small claims assessment review petitions may be obtained.

Unit 8
Second Meeting of the BAR and Subsequent Complaint Routes for Taxpayers

Lesson Importance	Understanding the concepts, principles, tasks, techniques and processes of conducting a second meeting of the board of assessment review in order to address corrections of errors, and to review small claims and certiorari proceedings.
Lesson Overview	This lesson provides definitions, fundamentals and basic knowledge about when and why a "Second Meeting" may be held, its importance and requirements. Also to better understand subsequent complaint routes for aggrieved taxpayers.
Lesson Objectives	By the end of this lesson you will be able to: • Understand what a "Second Meeting" of the BAR is for, and what it accomplishes • Understand the subsequent complaint routes, such as small claims assessment review and tax certiorari proceedings, and their relationship to BAR requirements.

Lesson 1
Second Meeting of Board of Assessment Review

Why is the second meeting held?

The second meeting of the BAR is convened for the purpose of reviewing assessments made pursuant to correction of errors law (RPTL, § 553).

This is done in a form of petition submitted to the BAR by the assessor or county director of real property services for the purpose of correcting any “clerical errors”, “unlawful entries”, “errors in essential fact”, or “omissions” appearing on the final assessment roll (RPTL, § 550).

When is the second meeting?

The second meeting is held approximately between July 15 and not less than 20 days prior to tax levy. Therefore, a BAR may have several “second” meetings for school, town/county, and non-assessing unit village purposes (RPTL, § 553).

Lesson 2
Subsequent Complaint Routes for Taxpayers

Routes of Complaint

If dissatisfied with a BAR determination, a taxpayer may seek judicial review. The two judicial remedies are called "Small Claims Assessment Review" and "Tax Certiorari".

Both must be filed for within 30 days after completion and filing of the final assessment roll and the taxpayer must have timely filed a grievance form RP-524 prior to petitioning for either.

Which route the taxpayer chooses depends on the type of property on which the complaint was filed.

Small Claims Assessment Review

Small Claims Assessment Review - Form RPTL 730*:*

1. For 1, 2 and 3 family residence owners only.
2. The taxpayer must have timely filed a grievance form RP-524 and followed due process
3. The taxpayer must file petition within 30 days after completion and filing of the assessment roll.

Certiorari Proceedings

Tax Certiorari Proceedings:

1. For all property owners.
2. The taxpayer must have timely filed a grievance – form RP-524 and followed due process.
3. The taxpayer must file petition within 30 days after completion and filing of the final assessment roll.

APPENDIX

Form 523 – Notice of Disclosure of Interest

Form 524 – Complaint on Real Property Assessment

Form 525 – Notice of Determination

Instructions for Form 525

Reference Listing:

Excerpts from Opinions of Counsel Index

Exemptions Handout

Contesting Your Assessment in New York State

RP-523-Dcl (8/06)

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

NOTICE OF DISCLOSURE OF INTEREST OF BOARD OF ASSESSMENT REVIEW MEMBER IN PARCEL FOR WHICH ASSESSMENT COMPLAINT HAS BEEN FILED

I, _____, a member of the Board of Assessment Review of the
name (print or type)

_____ hereby disclose the following direct or
name of assessing unit (print or type)

indirect interest in real property for which an assessment complaint has been received by the Board:

1. The parcel(s) in which I have a direct or indirect interest and for which a complaint has been received is (are) described on the assessment roll as follows:

2. The person having the interest in the parcel is ☐ myself ☐ my spouse ☐ my minor child.

3. The person having the interest

   a. ☐ is the owner of the parcel(s).
   b. ☐ is an (officer/director/partner/employee) of an entity which is the (owner/lessee) of the parcel(s).
   c. ☐ is an (officer/director/partner/associate) of a (law firm/real estate firm) having a financial interest with the (owner/lessee) of the parcel(s).
   d. ☐ legally or beneficially own(s) or control(s) stock of the corporate (owner/lessee) of the parcel(s), which stock is listed on a major stock exchange or sold on the over the counter market, and which stock has a current value of at least $10,000.

_____ _____
Signature of Member of Board of Assessment Review Date filed

_____ _____
Signature of Chief Executive Officer of Assessing Unit Date filed

GENERAL INFORMATION

Pursuant to section 523(3) of the Real Property Tax Law, a member of a board of assessment review must disclose direct or indirect interests in real property for which assessment complaints have been received by the board. This notice of disclosure of interest must be filed by the board member with the chief executive officer of the assessing unit on or before the date the board submits to the assessor(s) its verified list of changes to be made to the tentative assessment roll. Knowingly and intentionally failing to disclose such an interest can result in the imposition of a $1,000 fine for each omission.

Note: This form need only be filed when the board of assessment review member, member's spouse, or member's minor child has an interest in property for which a complaint has been filed, and the interest is one of those described in item 3 on the form.

Clear Form

INSTRUCTIONS (numbers refer to question number)

1. Identify the parcel for which a complaint had been received and in which you have an interest by entering its description as it appears on the assessment roll. Where the same interest is present with respect to several parcels, you may combine them on the same form, attaching additional sheets if necessary.

2. Check the applicable line indicating whether it is (a) you, (b) your spouse, or (c) your minor child (i.e., one under 18 years of age) who has the interest in the subject property.

3. Check the applicable line indicating the interest in the subject property. Where necessary, further describe the interest by striking out inapplicable choices that appear within parentheses. For example, if you are an officer of an entity which owns a parcel for which a complaint has been filed, you would check line b and strike out "director", partner" and "employee" within the first set of parentheses and "lessee" within the second set.

RP-524 (3/09)

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

COMPLAINT ON REAL PROPERTY ASSESSMENT FOR 20

BEFORE THE BOARD OF ASSESSMENT REVIEW FOR _____
(city, town village or county)

PART ONE: GENERAL INFORMATION

(General information and instructions for completing this form are contained in form RP-524-Ins)

1. Name and telephone no. of owner(s)

_____

_____

Day no. ( ) _____

Evening no. ( ) _____

2. Mailing Address of owner(s)

_____

_____

_____

Email (optional) _____

3. Name, address and telephone no. of representative of owner, if representative is filing application. (if applicable, complete Part Four on page 4.)

_____

4. Property location

_____ Street Address

_____ Village (if any)

_____ City/Town

_____ County

_____ School District

5. Property identification (see tax bill or assessment roll)

Tax map number or section/block/lot _____

Type of property: Residence ____ Farm ____ Vacant land ____
Commercial ____ Industrial ____ Other ____

Description: _____

6. Assessed value appearing on the assessment roll:

Land $ _____ Total $ _____

7. Property owner's estimate of market value of property as of valuation date (see instructions) $ _____

PART TWO: INFORMATION NECESSARY TO DETERMINE VALUE OF PROPERTY

(If additional explanation or documentation is necessary, please attach)

Information to support the value of property claimed in Part One, item 7 (complete one or more):

1. ____ Purchase price of property: ……..…….. $ _____

a. Date of purchase: _____

b. Terms _____ Cash _____ Contract _____ Other (explain)

c. Relationship between seller and purchaser (parent-child, in-laws, siblings, etc.): _____

d. Personal property, if any, included in purchase price (furniture, livestock, etc.; attach list and sales tax receipt): _____

2. ____ Property has been recently offered for sale (attach copy of listing agreement, if any):

When and for how long: _____

How offered: _____ Asking price: $ _____

3. ____ Property has been recently appraised (attach copy): When: _____ By Whom: _____

Purpose of appraisal: _____ Appraised value: $ _____

4. ____ Description of any buildings or improvements located on the property, including year of construction and present condition:

_____

5. ____ Buildings have been recently remodeled, constructed or additional improvements made:

Cost $ _____

Date Started: _____ Date Completed: _____

Complainant should submit construction cost details where available.

6. ____ Property is income producing (e.g., leased or rented), commercial or industrial property and the complainant is prepared to present detailed information about the property including rental income, operating expenses, sales volume and income statements.

7. ____ Additional supporting documentation (check if attached).

PART THREE: GROUNDS FOR COMPLAINT

A. UNEQUAL ASSESSMENT (Complete items 1-4)

1. The assessment is unequal for the following reason: (check a or b)
   - a. ____ The assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.
   - b. ____ The assessed value of real property improved by a one, two or three family residence is at a higher percentage of full (market) value than the assessed value of other residential property on the assessment roll or at a higher percentage of full (market) value than the assessed value of all real property on the assessment roll.
2. The complainant believes this property should be assessed at % of full value based on one or more of the following (check one or more):
   - a. ____ The latest State equalization rate for the city, town or village in which the property is located is %.
   - b. ____ The latest residential assessment ratio established for the city, town or village in which the residential property is located. Enter latest residential assessment ratio only if property is improved by a one, two or three family residence %.
   - c. ____ Statement of the assessor or other local official that property has been assessed at %.
   - d. ____ Other (explain on attached sheet).
3. Value of property from Part one #7 ……..... $ _____
4. Complainant believes the assessment should be reduced to …..... $ _____

B. EXCESSIVE ASSESSMENT (Check one or more)

The assessment is excessive for the following reason(s):

1. ____ The assessed value exceeds the full value of the property.
   - a. Assessed value of property ……. $ _____
   - b. Complainant believes that assessment should be reduced to full value of (Part one #7) $ _____
   - c. Attach list of parcels upon which complainant relies for objection, if applicable.
2. ____ The taxable assessed value is excessive because of the denial of all or portion of a partial exemption.
   - a. Specify exemption (e.g., senior citizens, veterans, school tax relief [STAR]) _____
   - b. Amount of exemption claimed …… $ _____
   - c. Amount granted, if any ……... $ _____
   - d. If application for exemption was filed, attach copy of application to this complaint.
3. ____ Improper calculation of transition assessment. (Applicable only in approved assessing unit which has adopted transition assessments.)
   - a. Transition assessment ……. $ _____
   - b. Transition assessment claimed …… $ _____

C. UNLAWFUL ASSESSMENT (Check one or more)

The assessment is unlawful for the following reason(s):

1. ____ Property is wholly exempt. (Specify exemption (e.g., nonprofit organization))
2. ____ Property is entirely outside the boundaries of the city, town, village, school district or special district in which it is designated as being located.
3. ____ Property has been assessed and entered on the assessment roll by a person or body without the authority to make the entry.
4. ____ Property cannot be identified from description or tax map number on the assessment roll.
5. ____ Property is special franchise property, the assessment of which exceeds the final assessment thereof as determined by the Office of Real Property Tax Services. (Attach copy of certificate.)

D. MISCLASSIFICATION (Check one)

The property is misclassified for the following reason (relevant only in approved assessing unit which establish homestead and non-homestead tax rates):

____ Class designation on the assessment roll: ……..... _____

1. ____ Complainant believes class designation should be …….. _____
2. ____ The assessed value is improperly allocated between homestead and non-homestead real property.

Allocation of assessed value on assessment roll		Claimed allocation
Homestead	$ _____	$ _____
Non –Homestead	$ _____	$ _____

PART FOUR: DESIGNATION OF REPRESENTATIVE TO MAKE COMPLAINT

I, _____ , as complainant (or officer thereof) hereby designate _____ to act as my representative in any and all proceedings before the board of assessment review of the city/town/village/county of _____ for purposes of reviewing the assessment of my real property as it appears on the _____ (year) tentative assessment roll of such assessing unit.

_____ Date

_____ Signature of owner (or officer thereof)

PART FIVE: CERTIFICATION

I certify that all statements made on this application are true and correct to be best of my knowledge and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false instruments.

_____ Date

_____ Signature of owner (or representative)

PART SIX: STIPULATION

The complainant (or complainant's representative) and assessor (or assessor designated by a majority of the board of assessors) whose signatures appear below stipulate that the following assessed value is to be applied to the above described property on the (year) assessment roll: Land $ Total $

(Check box if stipulation approves exemption indicated in Part Three, section B.2. or C.1.)

_____ Complainant or representative

_____ Assessor

_____ Date

SPACE BELOW FOR USE OF BOARD OF ASSESSMENT REVIEW

Clear Form

Disposition

- ☐ Unequal assessment
- ☐ Excessive assessment
- ☐ Unlawful assessment
- ☐ Misclassification
- ☐ Ratification of stipulated assessment
- ☐ No change in assessment

Reason:_____

_____

Vote on Complaint

☐ All concur

☐ All concur except: _____ ☐ against ☐ abstain ☐ absent
Name

_____ ☐ against ☐ abstain ☐ absent
Name

	Tentative assessment	Claimed assessment	Decision by Board of Assessment Review
Total assessment	$_____	$_____	$_____
Transition assessment (if any) ...	$_____	$_____	$_____
Exempt amount.....	$_____	$_____	$_____
Taxable assessment.....	$_____	$_____	$_____

Class designation and allocation of assessed value (if any):

Homestead	$_____	$_____	$_____
Non-homestead	$_____	$_____	$_____

Date notification mailed to complainant _____

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

NOTICE OF DETERMINATION OF BOARD OF ASSESSMENT REVIEW

For _____
(city, town village or county)

Name and address of Complainant

_____
Tax map section/block/lot #

_____

_____
Location of property if different than address of Complainant

The tentative assessed value of $_____ for this property:

a. ☐ has been reduced to an assessed value of Land $_____ Total $_____
☐ if this box is checked, assessment has been reduced to amount claimed in complaint

b. ☐ has not been reduced

Your complaint was based upon a contention that your assessment should be changed because of the following:

☐ Assessed Valuation ☐ Exemption ☐ Classification ☐ Other

The Board of Assessment Review has made this determination for reason set forth below:

a. The current full market value of your property was determined to be $ _____

☐ (1) The proof of value you presented was adequate to support reduction granted.
☐ (2) The proof of value you presented was inadequate because _____
- ☐ i. the supporting data was insufficient
- ☐ ii. sales were not comparable to your property
- ☐ iii. the written appraisal was incomplete
- ☐ iv. the income and expense statement was incomplete (income producing property)
- ☐ v. the construction cost details were incomplete.

b. The uniform percentage of value applicable in this assessing unit is _____

☐ (1) The proof of assessment ratio that you presented was adequate to support reduction granted.
☐ (2) The proof of assessment ratio that you presented was inadequate because:

- ☐ i. insufficient evidence was used in calculating an assessment ratio
- ☐ ii. sufficient evidence was presented by the assessor to refute the residential assessment ratio (RAR) or the State equalization rate
- ☐ iii. the State ratios are inapplicable due to revaluation
- ☐ iv. the ratio that you presented was not the correct residential assessment ratio (RAR)
- ☐ v. the rate that you presented was not the correct State equalization rate.

c. The physical characteristics and inventory of your property were determined to be:

☐ (1) correct
☐ (2) incorrect.

cont.

Assessed Valuation (cont.)

The correct inventory should indicate the following: _____

_____

_____

Exemption

The taxable assessed value was determined to be $_____

☐ (1) Your request for exemption has been granted in the amount of $ _____

☐ (2) Your request for an exemption was denied because you do not qualify for that exemption.

Classification

a. The property class designation was determined to be:
   - ☐ (1) correct
   - ☐ (2) incorrect because:
     - ☐ i. the class designation should be homestead
     - ☐ ii. the class designation should be non-homestead

b. The property class allocation was determined to be:
   - ☐ (1) correct
   - ☐ (2) incorrect because:
     the class designation should be allocated homestead in the amount of $ _____
     and non-homestead in the amount of $_____.

Dismissal

☐ Your complaint has been dismissed because of your (or your representative's) willful neglect or refusal to attend this board's hearing or to be examined concerning your complaint or to answer questions relevant to your complaint. Where the court finds that a dismissal is warranted, no assessment reduction can be granted.

Additional Factors

Factors in addition to or other than those listed that affected the determination were:

_____

_____

_____

If you are dissatisfied with the determination of the Board of Assessment Review, you may seek judicial review of your assessment pursuant to Article 7 of the Real Property Tax Law (RPTL).

If you are the owner of one, two or three family residential structure and reside at such residence, or, if you are the owner of unimproved property which is not of sufficient size as determined by your assessing unit to contain a one, two or three family residential structure, you may seek small claims assessment review pursuant to Title 1-A of Article 7 of the RPTL. Petitions for judicial review must be filed within thirty (30) days of the last date allowed by law for the filing of the final assessment roll for your assessing unit, or the published notice of such filing, whichever is later. Petition forms for Small Claims Assessment Review may be obtained from the County Clerk's Office.

Vote on complaint

Clear Form

☐ All concur

☐ All concur except: (name) _____ ☐ against ☐ abstain ☐ absent

(name) _____ ☐ against ☐ abstain ☐ absent

_____ _____

Date Chairperson, Board of Assessment Review (Signature)

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

INSTRUCTIONS FOR COMPLETING THE NOTICE OF DETERMINATION OF BOARD OF ASSESSMENT REVIEW (FORM RP-525)

(For use by Board of Assessment Review)

Real Property Tax Law, section 525, requires the Board of Assessment Review to mail to each complainant a notice of determination, including a statement of the reasons for the determination. Form RP-525 is designed to provide the complainant with the required notification, including reasons for determination. You may complete the form as follows:

General Information. Enter the required identifying information, including the name and address of the complainant and the tax map section/block/lot number of the parcel.

Enter the tentative assessed value and check either box (a), if the assessment has been reduced, or box (b), if the assessment has not been reduced. If the assessment has been reduced (box (a)), indicate the new assessed value by entering the assessed value of the land and the total assessed value. If the reduction granted equals that sought by the complainant, check the appropriate box.

Then check the appropriate box to indicate complainant's reason for requesting assessment review, and complete the section or sections which are applicable to the complainant.

Assessed Valuation

Complete this section if the complaint relates to valuation or assessment ratio.

- In part (a), set forth what you have determined to be the current full market value of the property.
- If the proof of value presented was adequate to support the reduction granted, check box (1).
- If the proof of value presented was inadequate, check box (2) and check the appropriate box (i.-v.), to indicate why the proof of value was inadequate.
- In part (b), set forth the uniform percentage of value applicable in the assessing unit.
- If the proof of ratio was adequate to support the reduction granted, check box (1).
- If the proof of ratio was inadequate, check box (2) and check the appropriate box (i.-v.), to indicate why the proof of ratio was inadequate.
- If there is a dispute about the inventory, complete part (c). Check box (1), if the inventory was determined to be correct. Check box (2), if the inventory was incorrect, and list the correct inventory in the space provided.

Exemption

Complete this section if the complaint relates to an exemption, by setting forth the taxable assessed value.

- Check box (1), if the request for exemption has been granted, and indicate the amount of the exemption.
- Check box (2), if the request for exemption has been denied.

Classification

Complete this section if the complaint relates to the classification of the property. This section is only applicable in approved assessing units which have elected to establish separate tax rates for homestead or non-homestead real property.

- If the complaint relates to the property class designation, complete part (a).
- Check box (a) (1), if the property class designation was correct.
- Check box (a) (2), if the property class designation was incorrect, and check either box (2) (i.), if the class designation should be homestead, or box (2) (ii.), if the class designation should be non-homestead.
- If there is a dispute about the allocation of the assessment between homestead and non-homestead, complete part (b).
- Check box (b) (1), if the allocation was determined to be correct.
- Check box (b) (2), if the allocation was determined to be incorrect, and indicate the correct allocation in the space provided.

Dismissal

Complete this section if the complaint has been dismissed because the complainant or his or her designated representative willfully neglected or refused to attend your board's hearing or to be examined concerning the complaint or to answer questions relevant to the complaint. Where the court finds that a dismissal is warranted, no assessment reduction can be granted.

Additional Factors

Complete this section if there are other factors in addition to those listed that affected the determination or if additional explanation is warranted.

Record your board's vote on the complaint by checking the appropriate box and entering board members' names as necessary.

Each determination should be signed and dated by the chairperson of the Board of Assessment Review.

Excerpt from the Subject Index of the Opinions of Counsel. These are the *Assessment Review* and *Assessment Review, Board of* sections of the Subject Index for the Opinions of Counsel. For a complete and up to date list of the Opinions of Counsel go to: www.tax.ny.gov/pubs_and_bulls/orpts/legal_opinions/index.htm

Assessment review

Agency
- Authorization-owner's initials 7- 69
- Designation of representative 10-123
- Liability for false statements 8- 34

Alternative grievance day for nonresidents 2-7, 2-111

Alternative grievance day where assessor serves multiple jurisdictions 11-117

Application
- Mailing 1- 92

Article 78 proceeding
- Exhaustion of administrative remedies 4- 46

Filing fee for administrative complaint 10- 1

Form of complaint
- Non-residents 11- 59
- Photocopies and facsimiles; electronic signatures 10-123

Grievance day
- Repeal of city charter provision 7- 43

Grounds for review
- Denial of partial exemption 9-112

Inequality
- Underassessment of comparable parcels 10-104

Sales data 7- 7

Standing
- Lessee of shopping center 7-123
- Mobile home owner 10- 83
- Mortgagee's right to review 4- 87

Stipulation
- Failure to ratify-judicial review 10- 89
- Role of board of assessment review 10- 37

Tax certiorari proceeding
Appearance by Assessor or Board of Assessment Review 4- 21
Commencement prior to final roll 8- 17
Condominiums; refund - assessment reduction of $10,000 or less (opinion superseded by L.1995, c.467) 9-107
Consolidation-refund-reduction of 10,000 or less 7-117
County attorney assisting town attorney 6- 15
Equalization rate data 6- 2
Equalization rate in excess of 100 as to overvaluation claim 5-120
Equalization rates-special rates 6- 29
Exhaustion of administrative remedies 4- 46
Purchaser pursuant to executory contract of sale-action by 3- 82
Refund of taxes in approved assessing units 8- 6
Refund-assessment reduction of $10,000 or less 7-117
Refund-calculation of interest 11- 75
Refund-penalty-interest 9-113
Refund-resolution 11-122
Sales data 7- 7
Settlement (construes law prior to L.1995, c.693) 3- 92
Settlement-delegation of assessment function 10-110
Settlement-effect upon county (8-74 modifies 6-116; both opinions construe law prior to L.1995, c.693) 6-116, 8-74
Settlement-town board opposition 8- 50
Settlement-uncontested succeeding assessment (construes law prior to L.1995, c.693) 7- 42
Standing-mobile home owner 10- 83
Standing-mortgagee's right to review 4- 87
Standing-residential tenant 7-123
Standing-school district challenge to assessor's determination of taxable status of nonprofit organization's property 5- 22
Standing-shopping center lessee 7-123
State equalization rate 9- 65
Statute of limitations-tolling 10-113
Stipulation as to methodology 8- 35
Stipulation to "frozen assessment" (construes law prior to L.1995, c.693) 5- 23

Assessment Review, Board of
Administrative hearing panels
Participation in informal review process 11- 99
Powers and duties 10- 54

Alternate board
Appointment of replacement members 2- 15
Training requirements 8- 86

Appearance in tax certiorari proceeding 4- 21

Assessing unit's right to appeal 1- 83

Assessments for prior years 9- 18

Assessor's attendance at hearings; meetings 5- 75

Authority to grant alternative hearing dates 2- 7

Chairman
Powers and duties (see RPTL, sec. 523(1)(e)) 5- 75
Selection (see RPTL, sec. 523(1)(e)) 1- 37

Cities and towns with elected assessors 1- 91

City council without authority to review assessments 2- 29

Composition
Commissioner of education 1-113
Eligibility of town board member 1- 85
Employee of State Board of Equalization and Assessment 3-122
Failure of assessing unit to appoint Board 2- 60
Increasing or decreasing number on Board (4-20 superseded in part by 11-95 4-20, 11-95
Official of political party 3-122
Owners of real property 2- 16
Planning board member as member 4-122
Real estate broker as member 2- 1
School tax collector as member 1-105
Tax assessment appraiser 5- 65
Town supervisor 5- 88
Village assessor on town board 1-120
Village trustee on town board of assessment review 2-21

Composition of village board
Board of trustees 8- 31
Quorum 8- 54
Statutory requirements 1- 42
Village assessor (construes law prior to L.1982, c.579) 3- 53

Effect of Art. 15-A on inconsistent city charters 4-101

Evidence submitted to board
Public access 11- 36

Filing of complaint
Adjourned hearing 9- 53
Prospective purchaser-agent of owner 7- 69
Receipt after close of public hearings 7- 61
Scheduled adjournment (construes law prior to L.1991, c.662) 5- 74

Grievance days in cities-dates fixed by city charters 2-110

Hearings; meetings
Appointment schedule 11- 28
Adjournment for assessor review 11- 28
Audiotape and videotape 10- 14
Established by charter 9 - 53
Open Meetings Law 6- 125
Recessed hearing 9- 111
Town attorney's role 7 - 95

Implementation of decision-resolution 11-122

Local law providing for county board of assessment review 3- 47

Membership and qualifications
Village board 8- 31

Powers and duties
Adequacy of proof for assessment reduction - assessments of comparable properties 9- 11
Apportionment of assessment between land and total assessed values 10- 81
Assessment stipulation agreed to and ratified by less than majority of board and board of assessors 12- 4
Basis of determination-notice to complainant

(construes law prior to L.1991, c.662) 6- 88
Correction of errors-degree of judgment 10- 37
Correction of errors-lack of quorum 9-124
Demanding attendance 8- 11
Evidentiary demand-professional appraisal 8- 83
Exemptions-late applications 8- 38
Final assessment (construes law prior to L.1981, c.994) 2- 99
Generally 2- 62
Increased assessment 10-104
Inspections and appraisals 4- 30
Late, defective and insufficient complaints - dismissal 10- 80
Multiple designations of representatives 10- 53
Notice of determination-erroneous notice 10-113
Notice to attorneys and other representatives 10- 53
Reduction below amount requested 7- 83
Reduction of assessed value to amount less than requested 7- 83
Scope of review-assessor's methodology 7- 67
Second meeting 8- 18
Stipulation of assessment 10- 37
Unsigned complaint form 9- 15
Verified list of changes 10-118
Verified list of changes-delivery 7- 49

Qualifications
Procedures to review 7-104

Removal of member 4- 27

Representation by non-attorney 9- 63

Subpoena of records in certiorari proceeding 2- 97

Terms of office 5- 75

Training requirements
Alternate board 8- 86

Training sessions
Expenses incurred 1- 67

Exemptions

- The Board of Assessment Review may be asked to review an assessor's denial of all or a portion of a real property tax exemption sought by a property owner.

- There are more than 200 such exemptions, most of which are included in the Real Property Tax Law.

- Your assessor has been provided with the New York State Assessor's Manual Volume 4: Exemption Administration, which consists of two binders containing summary information and forms regarding these exemptions. The introduction and subject index to Volume 4 is included herein.

- If your board is asked to review an exemption determination, you may ask the assessor to borrow the manual. It is also available on the Office of Real Property Tax Services website at: www.tax.ny.gov/research/property/assess/manuals/vol4/pt1/index.htm

- Legal questions concerning exemption eligibility should be directed to the Board of Assessment Review's attorney.

Publication 1114 (02/12)

NYS Department of Taxation and Finance

OFFICE OF REAL PROPERTY TAX SERVICES

www.tax.ny.gov

Contesting Your Assessment in New York State

(Previously titled "What to do if you disagree with your assessment")

Overview……Page 1

Grievance procedures……Page 2

Completing grievance Form RP-524……Page 5

OVERVIEW

If you own property in New York State, you are eligible for formal review of your assessment.

There are two levels of formal review:

1) Administrative review - the "grievance" process is conducted at the municipal level
2) Judicial review
   - in order to pursue judicial review you must first go through administrative review
   - includes two options:
     1. Small Claims Assessment Review (SCAR) - a low-cost option available to most homeowners – information is available from the website of the Unified Court System - www.nycourts.gov/litigants/scar/generalinfo.shtml
     2. Tax certiorari proceedings in State Supreme Court - to pursue this option, you should contact an attorney.

Before pursuing formal review of your assessment, you should first determine if you are assessed fairly:

Step One: What is the assessor's estimate of the market value of your property?
You'll find this information on the assessment roll.

You should check your assessment annually prior to Grievance Day (typically the fourth Tuesday in May, but confirm the date with your assessor).

If your municipality is assessing at 100% of market value, your assessment and the assessor's estimate of market value will be identical.

If assessments are not at 100% of market value, you can use this formula to calculate the assessor's estimate of market value:

- assessment ÷ level of assessment = assessor's estimate of market value

Step Two: Develop an estimate of the market value of your property

- Homeowners may refer to our publication How to estimate the market value of your home
- Other property owners may wish to contact an appraiser or other real estate professional

Generally, if the assessor's estimate of the market value of your property reflects roughly the amount for which you could sell your property, then your assessment is fair.

Step Three: If your assessment is too high

Often, an informal discussion between a taxpayer and an assessor can result in a sharing of information beneficial to both parties. If such a discussion does not result in a reduction in your assessment, and you still feel as though your assessment is too high, you may wish to contest your assessment.

Rather than determining that your assessment is too high, you might find that your property is assessed based on its market value, but the rest of the community is assessed at a lower level of assessment. Again, you should discuss this with your assessor. For example,

- Your property is worth $100,000 and your assessment is $100,000. However, properties in your town are assessed at 90% of market value. Your property is overassessed – your assessment should be $90,000.

If you are assessed fairly, but you feel that your taxes are too high

Assessors do not determine your property taxes. If you feel as though your assessment accurately reflects the market value of your property, but you still feel that your property taxes are too high, you may wish to address this matter with the taxing jurisdictions that impose taxes in your community - school board, county legislature, city council, town board, fire district and other special districts.

The assessor cannot assist you with tax matters, but only with matters pertaining to the assessed value of your property.

GRIEVANCE PROCEDURES

Any person who pays property taxes can grieve an assessment, including:

- property owners
- purchasers
- tenants who are required to pay property taxes pursuant to a lease or written agreement

Only the assessment on the current tentative assessment roll can be grieved - you can't grieve assessments from prior years.

There is no cost to grieve an assessment and it does not require you to hire a lawyer.

Filing the grievance form

Outside of New York City and Nassau County, use Form RP-524 *Complaint on Real Property Assessment* to grieve your assessment. The form is available from our website (www.tax.ny.gov) or from your assessor's office.

- New York City residents - Contact the New York City Tax Commission - 212-669-4410
- Nassau County residents - Contact the Nassau County Assessment Review Commission - 516-571-2391.

File the grievance form with the assessor or the board of assessment review (BAR) in your city or town.

If your property is located in a village that assesses property, you will have two assessments, one for the village and one for the town. To grieve both assessments, you are required to file a separate Form RP-524 with both the town and village. Grievance dates for villages will vary from towns (see below) – contact your village clerk to determine if your village assesses property and for grievance dates (see below.

Deadline for filing Form RP-524

In most communities, the deadline for submitting Form RP-524 is Grievance Day (see below). If you mail the form, it must be **received** by the assessor or BAR no later than Grievance Day. If you do not file the form by the deadline, you will lose the opportunity for administrative **and judicial review** of your assessment this year.

Check with your assessor to confirm Grievance Day in your community

Grievance Day is the deadline for submitting Form RP-524 and the day that the BAR meets to hear complaints. In most communities, Grievance Day is the fourth Tuesday in May. However, there are exceptions:

- **Cities and towns that share an assessor** can adopt different Grievance Days between the fourth Tuesday in May and the second Tuesday in June
- **New York City** - the Assessment Review Commission meets throughout the year, but complaints must be filed by March 15 for Class One properties and March 1 for all other properties
- **Nassau County** – the Assessment Review Commission meets throughout the year, but complaints must be filed by March 1
- **Other cities** – dates vary, contact your assessor or city clerk for the date
- **Suffolk County -** town BAR's meet on the third Tuesday in May
- **Westchester County** - town BARs meet on the third Tuesday in June
- **Villages that assess property** – typically, the BAR meets on the third Tuesday of February; however, dates can vary – check with your village assessor or village clerk

Local government contact information is available from our Municipal Profiles Web page.

Non-resident property owners

If you're a property owner who doesn't reside in the municipality where you own property, you have additional rights related to grieving your assessment:

- You can file a written request for a list of your property, the assessed value, and the time and place for hearing grievances. The request must be made no later than 15 days prior to Tentative Roll Date. (Tentative Roll Date is May 1 in most communities, but confirm the date with your assessor – also see our property tax calendar Web page). The assessor must mail the information to you no later than five days after the completion of the tentative assessment roll.

- A non-resident owner can request a date after Grievance Day for the grievance hearing but must submit Form RP-524 on or before the regularly scheduled Grievance Day. Request must be made to the BAR or to the assessor on or before grievance day and the BAR must set a date no later than 21 days after grievance day for the hearing.

Stipulating to an assessment reduction

On or prior to Grievance Day, you and the assessor may stipulate to a reduced assessment of the value of your property. To do so, complete and sign Part Six of Form RP-524. Be sure to receive a copy of the signed stipulation for your records.

If you enter into a stipulation, you may not ask the board of assessment review for a further reduction in your assessment. If the agreed upon assessment appears on the final assessment roll, you will not be allowed to seek a lower assessment through judicial review.

Appearing before the BAR

The BAR consists of three to five members appointed by the city council, town board or village board. The BAR cannot include the assessor or any staff from the assessor's office. Assessors, however, are required to attend all formal hearings of the board and have the right to be heard on any complaint.

You have the right to attend the hearing of the BAR and to present statements and/or documentation in support of your grievance. You may appear personally, with or without your attorney or other representative.

If you choose to be represented by your attorney or other representative, you must authorize that person to appear on your behalf (see Part Four of Form RP-524).

The BAR may require you or your representative to appear personally, or to submit additional evidence. If you refuse to appear or answer any material question you will not be entitled to a reduction in assessment.

Notification of the BAR's decision

You will receive a notice of the board's determination (except where the board ratifies a stipulated assessment – see below). The notice must contain a statement of the reasons for the board's determination.

If you don't receive the relief you requested

If you are dissatisfied with the decision of the BAR, you may seek judicial review of your assessment via:

- **Small Claims Assessment Review (SCAR)** – only available to:
    - Property owners who live in their one, two or three family dwellings that are used exclusively for residential purposes, or
    - Owners of vacant land that is not of sufficient size to contain a one, two or three family dwelling.

- Requires $30 filing fee
- Information regarding SCAR is available from the New York State Unified Court System

- **Tax certiorari proceeding**
  - Commenced in New York State Supreme Court pursuant to Article 7 of the Real Property Tax Law
  - We highly recommend you contact a private attorney.

Deadline for judicial review
SCAR and tax certiorari proceedings must be initiated within 30 days of the filing of the final assessment roll or notice of such filing, whichever is later.

COMPLETING GRIEVANCE FORM RP-524

You can complete Form RP-524 *Complaint on Real Property Assessment* yourself or your representative or attorney can complete it for you.

Part One - General information

Lines 1 through 4 are self-explanatory.

Line 5 - You can find your property identification information on your property tax bill or the assessment roll.

Line 6 - You'll find your land assessment and total assessment on the assessment roll or a notice from your assessor's office. Note that you can't grieve the land assessment – you can only grieve the total assessment.

Line 7 - Determine the market value of your property based on sources of information suggested on RP-524, Part II. Remember that your estimate of the market value of your property should be based on your property's value as of the Valuation Date, which is July 1 of the prior year in most municipalities. You should be careful when determining how much of an assessment reduction to request because you may be precluded from obtaining a greater reduction than the amount you request, even if circumstances should show that a larger reduction is warranted.

Part Two - Value of property

In order to qualify for a reduced assessment, you will need to prove to the satisfaction of the BAR that your property is currently over-assessed. This section gives you the opportunity to provide information that supports a lower assessment.

For homeowners and owners of most residential properties, the best way to support your case is by providing sales of comparable properties where the sales prices are lower than the assessor's estimated market value of your property. See how to estimate the market value of your home.

Part Three - Grounds for complaint

In this section, you will make your case for reduced assessment by demonstrating that your property is assessed either:

- at a higher level of assessment than the rest of the community (Unequal – Option A)
- higher than the actual market value of your property (Excessive – Option B1)
- too high because an exemption has been improperly denied (Excessive – Option B2)
- too high because a transition assessment was inaccurately calculated (Excessive – Option B3)
- in a way that is contrary to the law (Unlawful – Option C)
- in the wrong class in a community that uses homestead and non-homestead tax rates (Misclassification – Option D)

Details of each option are below:

A. Unequal Assessment

You can claim unequal assessment if assessments in your city, town or village are not at 100% of market value and your property is assessed at a higher percentage of value than the average of all other properties or all other residential properties on the same assessment roll.

To demonstrate that your property is unequally assessed, first determine an estimate of the market value of your property as described above. Then determine the average level of assessment (also known as the *uniform percentage of value*) at which all other properties are assessed on the same assessment roll. To establish the level of assessment of your municipality, the following figures will be helpful:

- equalization rate (available from our Web site)
- residential assessment ratio for the city, town or village (available from our Web site)
- uniform percentage of value listed on the assessment roll

Of those three options, the one that is the lowest will generally be of the greatest value in determining the over-assessment of your property

In addition or alternatively, you may wish to generate your own estimate of your community's level of assessment for either all property or just residential property using either

- Market values and assessments of a sample of other properties on the same assessment roll
- Purchase price and assessment of other properties that have recently sold

Unequal assessment based on the equalization rate - Once you establish the value of your property and the level of assessment at which other properties are assessed, you can apply the level of assessment to your property and compare the result to your assessment. If the result is lower than your assessment, you can request that your assessment be reduced to that lower amount. For example:

- If you prove the market value of your property is $200,000, an assessment of $150,000 would show that your property is assessed at 75% of market value. If you prove that all other property on average is assessed at 50%, you could claim a reduction of your assessment to $100,000.

Unequal assessment based on the residential assessment ratio – If you own a one, two or three family residential real property, you also have the option of proving that the your property is assessed at higher level of assessment than the level of assessment applied to other residential properties on the same assessment roll.

Once you determine the level of assessment of other residential properties you can apply this level to the value of your property. If the result is lower than your assessment, you can request that your assessment be reduced to that lower amount. For example:

- If you prove the value of your property is $200,000, an assessment of $100,000 would show that your property is assessed at 50% of market value. If you prove that all other residential property is assessed on the average at 25%, you may claim a reduction of your assessment to $50,000.

B. Excessive Assessment

There are three cases where excessive assessment is the correct option to use:

1. If your municipality is assessing at 100% of market value and you believe your assessed value is greater than the full market value of the property

2. If you were denied a property tax exemption, or if you believe the exemption was calculated incorrectly. If you filed an exemption application with the assessor, include a copy of the application with your complaint. If you do not have a copy, you should request that the assessor submit it to the BAR.

3. Cities, towns and villages that use homestead/non-homestead tax rates can adopt a system of *transition assessments.* The transition assessments phase in over five years all increases and decreases in assessed valuations resulting from a revaluation. If your city, town or village has adopted transition assessments and you believe that the transition assessment for your property has been improperly calculated, you can claim an excessive assessment.

C. Unlawful Assessment

Unlawful Assessment is the option to choose if you believe your property is assessed in a way contrary to the law such that your property:

1. should be wholly exempt from property taxes because of its status as a certain type of organization or agency (e.g., churches, colleges, etc.) and you submitted an application for such an exemption

2. is located totally outside the boundaries of the city, town, village, school district or special district indicated on the assessment roll

3. was assessed by someone other than the assessor or your assessment was entered or changed after the tentative assessment roll was filed

4. cannot be located from the description on the assessment roll

5. is special franchise property (utility property in the public right-of-way) and the assessment exceeds the final assessment as determined by the Department of Taxation and Finance

D. Misclassification

If your municipality uses homestead and non-homestead tax rates, and you believe your property is assessed in the wrong class (either entirely or partially), misclassification is the option to use.

The homestead class includes:

- One, two, or three family residential parcels
- Residential condominiums
- Mixed use parcels (i.e., used in part for residential purposes and in part for non-residential purposes), if the primary use is residential
- Mobile homes and trailers, only if they are owner-occupied and separately assessed
- All vacant land parcels, not exceeding ten acres, which are located in an assessing unit which has a zoning law or ordinance in effect, provided that such parcels are located in a zone that does not allow a residential use other than for one, two or three family dwelling residential real property
- Farm dwellings
- All land used in agricultural production that is eligible for an agricultural assessment and the owner has filed an annual application for an agricultural assessment (Section 305 or 306 of the Agriculture and Market Law)
- All farm buildings and structures as defined in Section 483(3) of the Real Property Tax Law

The non-homestead class includes all other real property (e.g., commercial, industrial, special franchise and utility property, and some vacant land.)

There are cases where part of a property can be classified homestead and part classified non-homestead. For example, in the case of a 100 acre parcel, an assessor may classify the residence and surrounding 10 acres as residential while the rest is classified as non-homestead.

Part four - Designation of representative

If you designated someone to represent you before the BAR, then list your name, your representative's name, sign and date.

Part five - Certification

You or your representative must sign and date this section.

Part six - Stipulation

Only complete this section if you and the assessor agreed to a reduced assessment. In these cases, the BAR is expected to ratify the stipulation. If you agree to a stipulation and it is approved by the BAR, you will no longer have the right to judicial review.