



City of New York

OFFICE OF THE COMPTROLLER

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COMPTROLLER



AUDIT AND SPECIAL REPORTS

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Deputy Comptroller for Audit

Audit Report on the New York City
Department of Finance's Administration
of the Cooperative Condominium Tax
Abatement Program

SR16-055A

January 27, 2016

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, NY 10007

SCOTT M. STRINGER
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January 27, 2016

To the Residents of the City of New York:

My office has audited the New York City Department of Finance (DOF) to determine whether DOF ensured that condominium owners receiving tax benefits granted to property owners under the New York State Cooperative and Condominium Tax Abatement Program (the Co-op/Condo Abatement) met the eligibility requirements of the program. We audit City agencies such as DOF as a means of increasing accountability and ensuring that City resources are used effectively, efficiently and in the best interest of the public.

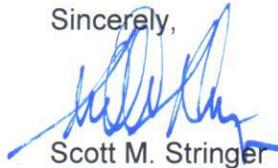
This audit found that DOF allowed owners of at least 1,249 properties to receive Co-op/Condo Abatements for which they were not eligible. These properties received 3,471 improperly granted Co-op/Condo Abatements from Fiscal Years 2013 through 2016 that resulted in a loss of property tax revenue of at least \$10,018,348. Specifically, we found that DOF did not remove Co-op/Condo Abatements from 1,049 properties after a condominium was sold to either a corporation or LLC. In addition, we found that DOF improperly processed and granted new Co-op/Condo Abatements to at least 36 condominiums that were owned by a corporation or LLC subsequent to the 2013 eligibility rule change. Finally, we found that 164 properties that are not classified by DOF for residential use received Co-op/Condo Abatements as well.

The audit made eleven recommendations, including that DOF should remove the Co-op/Condo Abatements from properties that, according to the DOF Automated City Register Information System (ACRIS) database, are owned by either a corporation or LLC; recover the \$9,858,638 in erroneous or excessive Co-op/Condo Abatements that were granted to the properties owned by either a corporation or LLC; remove the Co-op/Condo Abatements from properties that are not classified as Tax Class 2 properties; recover the \$159,710 in erroneous or excessive Co-op/Condo Abatements that were granted to properties not classified as Tax Class 2; ensure that controls are implemented to prevent a property owned by a corporation or LLC from receiving a Co-op/Condo Abatement; and ensure that controls are implemented to prevent a property not classified as a Tax Class 2 property from receiving a Co-op/Condo Abatement.

The results of the audit have been discussed with DOF officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,



Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER AUDIT AND SPECIAL REPORTS

Audit Report on the New York City Department of Finance's Administration of the Cooperative Condominium Tax Abatement Program

SR16-055A

EXECUTIVE SUMMARY

This audit of the New York City Department of Finance (DOF or Finance) concerns its administration of tax benefits granted to property owners under the New York State Cooperative and Condominium Tax Abatement Program (Co-op/Condo Abatement). That program provides a partial tax abatement (a deduction from the taxes assessed on the property) for residential real property held in the cooperative or condominium form of ownership in New York City. The amount of the Co-op/Condo Abatement is based on the average assessed value of the residential units in the building. If a building units' average assessed value is \$60,001 and above, the property tax due is reduced by 17.5 percent; if it is \$55,001 to \$60,000, the tax due is reduced by 22.5 percent; if it is \$50,001 to \$55,000, the tax due is reduced by 25.2 percent; and if it is \$50,000 or less, the tax bill is reduced by 28.1 percent.

Currently, to be eligible for the abatement, a cooperative or condominium (co-op/condo) unit must satisfy the following criteria:

- the unit must be the owner's primary residence; it must be classified as a Tax Class 2 property;
- it cannot be owned by a business (such as a Limited Liability Corporation or other type of corporation);
- no more than three residential units in a single building can be owned by the same person; and one of the three units must be the owner's primary residence.

During Fiscal Year 2015, there were 35,335 condominium units that received abatements totaling \$76.46 million, and 226,284 cooperative units that received abatements totaling \$322.98 million.

Audit Findings and Conclusion

DOF allowed owners of at least 1,249 properties to receive Co-op/Condo Abatements for which they were not eligible. These properties received 3,471 improperly granted abatements from Fiscal Years 2013 through 2016 that resulted in a loss of property tax revenue of at least \$10,018,348. Specifically, we found that DOF did not remove Co-op/Condo Abatements from

1,049 properties after a condominium was sold to either a corporation or an LLC. In addition, we found that DOF improperly processed and granted new Co-op/Condo Abatements to at least 36 condominiums that were owned by a corporation or LLC subsequent to the 2013 eligibility rule change. Finally, we found 164 properties that are not classified by DOF for residential use received Co-op/Condo Abatements as well.

With regard to these 36 properties, we could not locate in the personal exemptions online processing system any exemption and abatement applications filed on behalf of the 36 ineligible condominiums.¹ DOF provided development applications, filed by the board of managers, on behalf of 9 of the 36 ineligible condominiums. These applications incorrectly listed the condominiums as owned by individuals and not the actual owner of record, an LLC. However, without any documentation to review, we were unable to determine what prompted DOF to grant the abatements to the remaining 27 ineligible property owners after the rule change. DOF's failure to enforce the eligibility requirements has resulted in the granting of improper abatements.

Audit Recommendations

The audit made 12 recommendations including that DOF should:

- Remove the abatements from properties that, according to the DOF ACRIS data base, are owned by either a corporation or LLC.
- Recover the \$9,858,638 in erroneous or excessive abatements that were granted to the properties owned by either a corporation or LLC.
- Remove the abatements from properties that are not classified as Tax Class 2 properties.
- Recover the \$159,710 in erroneous or excessive abatements that were granted to properties not classified as Tax Class 2.
- Ensure that controls are implemented to prevent a property owned by a corporation or LLC from receiving the abatement.
- Ensure that controls are implemented to prevent a property not classified as a Tax Class 2 property from receiving the abatement.
- Determine what caused 36 ineligible condominiums to improperly be granted Co-op/Condo Abatements and take all appropriate action to prevent further occurrences.

Agency Response

DOF generally agreed with the audit's recommendations and stated that it would address the issues identified. Further, the agency stated that it "appreciates the Comptroller's audit findings regarding the administration of the Cooperative Condominium Tax Abatement Program (CCA)." However, with regard to the recommendations that DOF recoup prior erroneous abatements, DOF officials responding to the audit stated that "[w]e will meet internally with the Commissioner and

¹ The online processing system should have contained any exemption applications filed by the owners of the condominiums requesting any of the following exemptions: School Tax Relief (STAR), Enhanced STAR, Senior Citizen Homeowner, Disabled, Veteran, and Clergy. Prior to Fiscal Year 2016, co-op/condo owners were not required to also file for the Co-op/Condo Abatement in order to receive such an abatement. Rather, DOF would automatically grant Co-op/Condo Abatement if the owner qualified for one of the other exemptions that required proof of primary residence.

our Legal department to determine if it is appropriate to recoup benefits from prior years for these properties.”

AUDIT REPORT

Background

DOF is responsible for implementing and monitoring tax benefits granted under the New York State Cooperative and Condominium Tax Abatement Program, which provides a partial tax abatement for residential real property held in the cooperative or condominium form of ownership in New York City. The Co-op/Condo Abatement is a deduction to the taxes assessed on the property, the amount of which is based on the average assessed value of the residential units in the building. If the building units' average assessed value is \$60,001 and above, the property tax due is reduced by 17.5 percent; if it is \$55,001 to \$60,000, the tax due is reduced by 22.5 percent; \$50,001 to \$55,000, the tax due is reduced by 25.2 percent; and \$50,000 or less, the tax bill is reduced by 28.1 percent.

Property taxes are paid quarterly and assessed annually for each fiscal year. For property tax purposes, the fiscal year runs from July 1st of a given year through June 30th of the following calendar year. For example, fiscal year 2015 ran from July 1, 2014, through June 30, 2015. The taxes were assessed by DOF no later than May 25, 2014, and applicable to each quarter in that fiscal year.

New York State Real Property Tax Law (RPTL), Section 467-a, originally enacted in 1996, established a partial reduction of real property taxes for owners of cooperative and condominium properties in municipalities having a population of one million or more. Section 467-a was amended by Chapter 4 of the Laws of 2013 to establish additional criteria for eligibility, including that for a co-op/condo to be eligible for a Co-op/Condo Abatement, it must be owned by an individual and not a corporate entity.

Currently, to be eligible for the abatement a co-op/condo unit must satisfy the following criteria:

- the unit must be the owner's primary residence;
- it must be classified as a Tax Class 2 property; it cannot be owned by a business (such as a Limited Liability Corporation or other type of corporation);
- no more than three residential units in a single building can be owned by the same person and one of the three units must be the owner's primary residence;²
- All initial applications must be submitted by March 15th in order for the exemption to begin on July 1st of the same year.

Primary residence was not a requirement for eligibility prior to 2013.

Following the amendment to the RPTL in 2013, the Commissioner of Finance adopted rules that were "intended to clarify the criteria for eligibility for the abatement and the requirements concerning application for the abatement for fiscal years beginning in 2012, 2013 and 2014." Among other things, these rules set forth two of the requirements listed above: that co-op/condo dwelling units are only eligible for the abatement if the property is owned by an individual and not a corporation or other entity, and that the abatement is not available to an owner of more than three dwelling units in a development.

² Tax Class 2 properties include residential co-op, condo, or rental buildings with 4 or more units.

The new rules also eliminated the Co-op/Condo Abatement for owners for whom the property does not serve as a primary residence. However, the rules established a phase-out period whereby a non-primary resident owner who received the abatement in Fiscal Year 2012 saw a 50 percent abatement reduction for Fiscal Year 2013 and a 75 percent abatement reduction for Fiscal Year 2014. After that, only primary residence owners could receive the abatement. The rules also state that the Commissioner of Finance has the authority to recover any erroneously granted or excessive abatements.

A taxpayer can receive a Co-op/Condo Abatement based on the submission on the taxpayer's behalf by the co-op/condo board of managers or the managing agent of a *Cooperative/Condominium Property Tax Abatement Application* to DOF. This form is required by DOF to be submitted in connection with the initial creation of the co-op/condo. These applications are maintained by DOF's Co-op/Condo Abatement Unit. Cooperative boards of directors or managing agents are required to notify DOF of any ownership or eligibility changes that occur in the cooperative development by completing a *Cooperative Property Tax Abatement Change Form* on an annual basis. However, condo boards of managers are not required to complete a similar form notifying DOF of any ownership or eligibility changes that occur in individually owned units within the condominium development.

Co-op/Condo Abatements are also granted automatically by DOF to taxpayers who demonstrate entitlement to the abatement in the course of their submitting on their own behalf an *Exemption Application For Owners* to apply for other tax benefits, such as a STAR Exemption, an Enhanced STAR Exemption, a Senior Citizen Homeowner Exemption, a Disabled Homeowner Exemption, Veterans Exemption, or a Clergy Exemption. The individual applications and supporting documentation required by the *Exemption Application for Owners* are supposed to be scanned into the Personal Exemptions Online Processing System, an electronic data management system. The tax benefits for which a homeowner qualifies are then entered into DOF's mainframe system called Real Property Assessment Data. Co-op/Condo Abatements may also be granted by DOF, beginning July 1, 2015 (Fiscal Year 2016), based on individual co-op/condo owners specifically requesting them by completing a *Tax Benefits Application For Homeowners* form.

During Fiscal Year 2015, there were 35,335 condominium units that received Co-op/Condo Abatements totaling \$76.46 million, and 226,284 cooperative units that received abatements totaling \$322.98 million. This audit focuses on Co-op/Condo Abatements granted to condominium units.³

Objective

The objective of this audit was to determine whether DOF ensures that condominium owners receiving the Co-op/Condo Abatement meet the eligibility requirements of the program.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our

³ A review of DOF's list of cooperative units receiving abatements disclosed that there were only 12 cooperative units that were under non-individual ownership.

audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit includes condominium owners who were receiving a Co-op/Condo Abatement as of July 1, 2014. We expanded our scope for those owners who may have improperly received abatements, to calculate the extent and effect of these improper abatements as of July 1, 2012, 2013, and 2015. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with DOF officials during and at the conclusion of this audit. A preliminary draft was sent to DOF officials and discussed at an exit conference held on December 29, 2015. On January 8, 2016, we submitted a draft report to DOF officials with a request for comments. We received a written response from DOF officials on January 25, 2016. In its response, DOF generally agreed with the audit's recommendations and stated that it would address the issues identified. Further, the agency stated that it "appreciates the Comptroller's audit findings regarding the administration of the Cooperative Condominium Tax Abatement Program (CCA)." However, with regard to the recommendations that DOF recoup prior erroneous abatements, DOF officials responding to the audit stated that "[w]e will meet internally with the Commissioner and our Legal department to determine if it is appropriate to recoup benefits from prior years for these properties."

The full text of DOF's response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

DOF allowed owners of at least 1,249 properties to receive Co-op/Condo Abatements for which they were not eligible. These properties received a total of 3,471 improperly granted Co-op/Condo Abatements from Fiscal Years 2013 through 2016 that resulted in a loss of property tax revenue of at least \$10,018,348. DOF's improper allowance of Co-op/Condo Abatements is a consequence of its failure to remove abatements from 1,049 properties after condominium units were sold to either a corporation or LLC. In addition, DOF improperly processed and granted new Co-op/Condo Abatements to at least 36 condominiums that were owned by corporations or LLCs subsequent to 2013 when they were no longer eligible to receive such an abatement. Also, 164 properties that are not classified by DOF for residential use improperly received abatements.

With regard to the 36 condominium units we found that were owned by corporations or LLCs, we could not locate in the Personal Exemptions Online Processing System any applications filed on behalf of those ineligible condominiums. DOF was able to provide development applications, filed by the board of managers, on behalf of 9 of the 36 ineligible condominiums. Each of these nine applications incorrectly listed the condominium units as being owned by individuals and did not correctly identify the actual owner of record, an LLC. However, without any documentation to review, we were unable to determine what prompted DOF to grant the abatements to the remaining 27 ineligible property owners after the rule change. DOF's failure to enforce the eligibility requirements have resulted in the granting of improper abatements.

Properties Owned by Corporations or a Limited Liability Companies Improperly Received Co-op/Condo Abatements from DOF

We identified 1,085 properties that improperly received a Co-op/ Condo Abatement based on a review of DOF's list of abatements granted, quarterly tax bills, and *Final Assessment Roll* for fiscal years 2013 through 2016.⁴ The property owners of these 1,085 properties did not meet the requirements that would allow these properties to be eligible for the abatements because the ineligible properties were not owned by an individual as required by the rules adopted by DOF. Rather the properties were owned by either a corporation or a LLC as of January 5, the taxable status date of each fiscal year.⁵ For the 1,085 properties, we reviewed the date an LLC or corporation purchased each on the latest deed in DOF's ACRIS and determined the number and total dollar amount of the abatements that were incorrectly granted since Fiscal Year 2013. Altogether, these 1,085 properties incorrectly received 2,846 abatements totaling \$9,858,638 since Fiscal Year 2013.

For example, we found one property with a borough, block and lot (BBL) identified as Borough 1 Manhattan, Block 1049, and Lot 1199, that incorrectly received abatements of \$33,601 in Fiscal Year 2013, \$33,192 in Fiscal Year 2014, \$34,334 in Fiscal Year 2015, and \$34,258 in Fiscal Year 2016 for a total of \$135,385. According to records in ACRIS, this property has been owned by an

⁴ The first quarterly tax bill covering the period July 1 through October 1 indicates the abatement amount the condominium will receive for the entire fiscal year.

⁵ Taxable status date for a fiscal year is determined on the January 5th that immediately precedes the commencement of such fiscal year and is the date as of which the condition and ownership of real property is considered for the purposes of determining the eligibility of the property for the abatement (i.e., for fiscal year 2016 the determination date was January 5, 2015).

LLC since June 8, 2007 and was not entitled to an abatement pursuant to the eligibility criteria established in 2013.

The table below shows the total number and the total dollar amount of abatements incorrectly granted to owners that did not meet the ownership requirements by Fiscal Year.

Table I
Dollar Amount of Abatements Granted to Ineligible Ownership

<u>Fiscal Year</u>	<u>Number of Inappropriate Abatements Granted due to Ineligible Ownership</u>	<u>Dollar Amount of Abatements Granted</u>
<u>Fiscal Year 2016</u>	1085	\$3,807,522
<u>Fiscal Year 2015</u>	798	\$2,800,543
<u>Fiscal Year 2014</u>	550	\$1,875,133
<u>Fiscal Year 2013</u>	413	\$1,375,440
<u>Total</u>	<u>2,846</u>	<u>\$9,858,638</u>

Our review also found that 36 of the abatements were initially granted to ineligible property owners after Fiscal Year 2013 when the law was changed to eliminate abatements for properties owned by corporations or LLCs. For example, a Manhattan property with BBL 1,624,1408 incorrectly received an initial abatement of \$17,187 in Fiscal Year 2015 and received another of \$18,153 in Fiscal Year 2016, even though the latest deed in ACRIS has the property owned by an LLC as of May 15, 2013. In another example, a property with BBL 1,1340,1373 first received an abatement of \$38,901 in Fiscal Year 2015 and received another abatement of \$40,048 in Fiscal Year 2016. However, according to ACRIS, the property has been owned by an LLC since March 19, 2013.

We could not locate any applications in the Personal Exemptions Online Processing System filed on behalf of the 36 ineligible condominiums. We also requested development applications filed by the boards of managers for the buildings that included the 36 condominiums. However, DOF only provided development applications for 9 of the 36 condominiums. These nine development applications listed an individual as an owner of the unit that was actually owned by an LLC, according to DOF's final assessment roll and the most recent deed of sale. There were no individual applications or development applications on file for the remaining 27 condominiums. According to DOF's Records Retention Schedule, DOF is required to maintain the original or a copy of the application, along with required supporting documentation, for six years after termination of the abatement. Since the condominium owners are still receiving the Co-op/Condo Abatement, DOF should have retained the documentation. Without the documentation we cannot determine why the 27 ineligible condominium owners were improperly granted the Co-op/Condo Abatement after the law changed.

DOF policy is to use January 5th of a given year as the cutoff date to determine eligibility for a Co-op/Condo Abatement in the *next* fiscal year. Thus, if a property becomes ineligible after the

January 5th cutoff, then the Co-op/Condo Abatement is not removed for that year but is removed for the following year. For example, if a property that is eligible for the abatement changes ownership on January 6, 2015, and thereby becomes ineligible for the abatement, DOF will not remove the abatement until July 1, 2016, the beginning for the following fiscal year (fiscal year 2017). If the ownership change had occurred on January 5, 2015, the abatement would have been removed July 1, 2015, one year earlier.

We note that DOF removes other tax exemptions, such as the Senior Citizen Exemption, from the next quarterly tax bill after an owner becomes ineligible rather than waiting for the next year's assessment. Were DOF to adjust tax bills to reflect the proper award of Co-op/Condo Abatements on a quarterly basis instead of annually, the City would recover approximately \$1.8 million in addition to the \$9,858,638 we found in incorrect Co-op/Condo Abatements.

In addition, we found that 86 of the 1,085 properties that incorrectly received Co-op/Condo Abatements also incorrectly received \$30,054 in STAR exemptions in fiscal year 2016. A prior audit by our office reviewed instances where corporations and LLCs received STAR exemptions although, like co-op and condominium owners, they are not entitled to receive such an exemption.⁶

DOF Incorrectly Applied Co-op/Condo Abatements to Non-Residential Properties

DOF incorrectly applied the Co-op/Condo Abatements to 164 non-residential condominiums such as parking spaces, storage units, and other commercial facilities. In our review of DOF's list of Co-op/Condo Abatements granted, and of DOF's Final Assessment Roll, we identified those properties with non-residential tax classes and building class codes⁷ that received a Co-op/Condo Abatement. Table II below identifies the non-residential building class codes we found, along with the description of the building class code and the number of properties with that code that incorrectly received the Co-op/Condo Abatement.

Table II

Non-Residential Building Class Codes

Tax Class	Building Class Code	Description	Count
4	RS	Non-Business Storage Space	138
4	RG	Indoor Parking	16
4	RK	Retail Space	2
4	RT	Terraces/Gardens/Cabanos	5
4	RB	Office Space	3
	Total		164

⁶ *Audit Report on the Department of Finance's Administration of the School Tax Relief Program*, Audit Number FM15-070A, issued June 17, 2015.

⁷ DOF assigns each property a building class code that identifies the building type.

Section 467-a of the RPTL establishes the Co-op/Condo Abatement for residential real property held in the cooperative or condominium form of ownership. Section 467-a further defines property as real property designated as Tax Class 2, residential. Based on the tax class that DOF has recorded on the Final Assessment Roll, none of these 164 non-residential properties are in the eligible tax class and, therefore, none should receive the Co-op/Condo Abatement. By applying Co-op/Condo Abatements to these 164 properties, we determined that the City lost approximately \$159,710 in revenue for Fiscal Years 2013 through 2016 as shown in the table below.

Table III

Dollar Amount of Abatement Granted to Ineligible Property Types

<u>Fiscal Year</u>	<u>Number of Inappropriate Abatements Granted Due to Ineligible Property Type</u>	<u>Dollar Amount of Abatement Granted</u>
<u>Fiscal Year 2016</u>	164	\$50,103
<u>Fiscal Year 2015</u>	156	\$42,211
<u>Fiscal Year 2014</u>	149	\$38,659
<u>Fiscal Year 2013</u>	156	\$28,737
<u>Total</u>	<u>625</u>	<u>\$159,710</u>

DOF Standard Operating Procedures Do Not Require That Staff Check Property Ownership or Type, or a Supervisory Review

DOF's Standard Operating Procedures for processing Co-op/Condo Abatements do not require as part of the approval process that staff check applications for LLC or corporation ownership, or that the unit is listed as a Tax Class 2 property. Rather, DOF's Standard Operating Procedures only require staff to verify that the unit is not sponsor-held or being used as non-residential. This allows properties to be granted the Co-op/Condo Abatement that are not entitled to this benefit. By requiring staff to check applications to ensure that the property meets all the requirements before granting the abatement, properties owned by an LLC or corporation or properties that are not classified as Tax Class 2 would be identified and would not be granted Co-op/Condo Abatements. This would allow DOF to have reasonable assurance that only eligible properties are granted a Co-op/Condo Abatement at the outset.

Also, DOF's Standard Operating Procedures do not require a supervisory review of application processing. Rather, the Standard Operating Procedures only require receiving staff to verify owner information, asset information, and property description. This lack of required oversight hinders DOF's ability to detect errors or incomplete information and can adversely affect quality control of application processing. At the exit conference, DOF agreed that the Standard Operating Procedures do not specify in writing that staff check property ownership or that there be a

supervisory review. However, DOF stated both are performed. We nonetheless maintain that putting both requirements in writing will help ensure that staff and supervisors are aware of these requirements and may help to reduce the errors identified in this report.

Board of Managers of a Condominium Do Not Submit an Annual Certificate of Abatement Form or an Annual Condominium Property Tax Abatement Change Form

DOF does not enforce the New York State requirement that condominium boards annually file a certificate of abatement form after the initial Co-op/Condo Abatement is filed for the development. In addition, unlike cooperatives, DOF does not require condominium boards to submit a condominium property tax change form, which would indicate changes of ownership and eligibility of condominium units. According to the New York State Department of Taxation and Finance Assessor's Manual, Volume 4, Exemption Administration Manual Part 2, Multiple Dwellings Section 4.07 – RPTL Section 467a, an application for certificate of abatement must be annually submitted to the NYC Commissioner of Finance by the board of managers of a condominium or the board of directors of a cooperative apartment corporation.⁸

DOF should require condominium boards to annually file either a certificate of abatement form or a property tax abatement change form that would indicate the owner's name, tax identification number, primary residence verification, and the date the property was sold, if applicable. This would enable DOF to remove those owners who are not meeting the primary residence or ownership requirement, as well as notify DOF when units have been sold so that if an application has not been filed by the new owner, the abatement can be removed. By not requiring condominium boards to annually submit either a certificate of abatement form or an abatement change form, DOF limits its ability to update Co-op/Condo Abatement eligibility on a timely manner.

⁸ Assessors' Manuals are published by the Office of Real Property Tax Services and distributed to local assessors in order to help them perform their duties. These manuals contain information on how to maintain assessment and tax rolls, collect information on properties in their municipality, estimate market value and administer exemptions on qualified parcels. The information contained in these manuals is intended to supplement the training that each local assessor must receive in order to retain their position. While these manuals provide information of aid to local assessment officials, they do not contain all that an assessor must know in order to fulfill their responsibilities.

Recommendations

DOF should:

1. Remove the abatements from properties that, according to DOF's ACRIS, are owned by either a corporation or LLC.

DOF Response: "We agree. Our plan for implementation is to remove the abatement benefits as of the upcoming tax year (2016/17) as that is the nearest date that we can remove these benefits and notice the properties that are losing the benefit that you have identified that are currently owned by either a corporation or LLC. Going forward in 2017 our new internal system, Property Tax System (PTS), should prevent such errors from occurring and remove benefits accordingly as of the applicable tax year depending on the transfer date as a report does not exist in our current system to perform this task specifically for CCA. PTS is slated to launch during Tax Year 2017/18, and will completely replace our current system, RPAD. While awaiting the implementation of PTS, we are working closely with the Department of Finance's Finance Information Technology (FIT) group to tighten our strategies to inhibit corporations or LLC from the receiving the abatement. . . ."

2. Recover the \$9,858,638 in erroneous or excessive abatements that were granted to the properties owned by either a corporation or LLC.

DOF Response: "DOF agrees that the abatement benefits should be removed as of the upcoming tax year. We will meet internally with the Commissioner and our Legal department to determine if it is appropriate to recoup benefits from prior years for these properties."

3. Remove the abatements from properties that are not classified as Tax Class 2 properties.

DOF Response: "We agree. Our plan for implementation is to remove the abatement benefits as of the upcoming tax year (2016/17) as that is the nearest date that we can remove the benefits and notice the properties that are losing the benefit. In addition to PTS, we are currently working on an online portal for condominium/cooperative boards and managing agents to annually review and certify eligibility for the abatement, which should enable us to work with these buildings to ensure abatement eligibility information is accurate both going forward and for current data."

4. Recover the \$159,710 in erroneous or excessive abatements that were granted to properties not classified as Tax Class 2.

DOF Response: "DOF agrees that the abatement benefits should be removed as of the upcoming tax year. We will meet internally with the Commissioner and our Legal department to determine if it is appropriate to recoup benefits from prior years for these properties."

5. Consider changing the rules for removing abatements from ineligible properties from the following fiscal year to the next quarterly tax bill.

DOF Response: “The Department of Finance will analyze and assess what impact quarterly removal would have on cooperative unit shareholders, as they do not receive individual property tax bills for their units. We will discuss your recommendation internally to determine what our plan of action will be to establish a solution that is both fair to taxpayers and fiscally responsible to the City of New York.”

6. Ensure that it implements controls to prevent a property owned by a corporation or LLC from receiving the abatement.

DOF Response: “Currently, we are working with FIT to perform a special data job to identify corporations or LLCs in ACRIS that were not properly uploaded into our Condo/Co-op abatement system. For transfers/sales identified as a corporation or LLC entity, if there is an existing abatement on unit it will be removed effective tax 2016/2017. In an effort to strengthen our quality control we are working in conjunction with FIT to develop a weekly report that would pinpoint a transfer/sales relating to a corporation or LLC. We will utilize these reports to perform manual checks to ensure abatements are removed as of the appropriate tax year. As previously stated PTS should prevent such errors from occurring and remove benefits accordingly.”

7. Ensure that it implements controls to prevent a property not classified as a Tax Class 2 property from receiving the abatement.

DOF Response: “As previously stated PTS should prevent such errors from occurring and remove benefits accordingly. Further, we are working on launching an online portal for condominium boards and managing agents to annually review and certify eligibility for the abatement which should address this point forward as well as confirm accuracy of existing data. Prior to PTS, we will work with FIT to develop a system and reports (either weekly or monthly) that would assist in preventing these types of properties from receiving the abatement and expedite the removal of the abatement if it should erroneously continue or be granted in error.”

8. Determine what caused 36 ineligible condominiums to improperly be granted Co-op/Condo Abatements and take all appropriate action to prevent further occurrences.

DOF Response: “DOF has identified that a lack of a transfer report dedicated to units that receive CCA is a root cause of this issue as the benefits were not removed upon transfer from a previously eligible owner to an ineligible owner. As previously stated PTS should prevent such errors from occurring and remove benefits accordingly at the point of transfer. Further, we are working on the possibility of creating such a report in our current system as well as launching on an online portal for condominium boards and managing agents to annually review and certify eligibility for the abatement.”

9. Modify the Real Property Assessment Data to contain computer edit checks that will automatically:

- a. Reject Co-op/Condo abatements for properties that are owned by corporations and LLCs;
- b. Ensure that Co-op/Condo abatements are removed from a property when the title to a property is transferred to a new owner; and

- c. Reject Co-op/Condo abatements for properties that are not classified as a Tax Class 2 property.

DOF Response: “As previously stated PTS, which will replace RPAD, should prevent such errors from occurring and remove benefits accordingly. Further, we are working on the possibility of creating such a report in our current system as well as launching on an online portal for condominium boards and managing agents to annually review and certify eligibility for the abatement. The combined effort of these three projects, all of which have been in discussion prior to notification of the recommendations in your audit, should address all of the above concerns.”

10. Modify its Standard Operating Procedures to require staff to verify, as part of the application approval process, that the unit applying is a Tax Class 2 property and neither a corporation nor an LLC.

DOF Response: “While not explicitly documented, DOF does have existing procedures in place that require staff to review information such as the Deed or RPTT in ACRIS as well as information in proprietary databases such as LexisNexis to confirm ownership and unit eligibility. DOF will ensure this process is documented in the Application Processing Standard Operating Procedures going forward.”

11. Modify its Standard Operating Procedures to require a supervisory review of application processing.

DOF Response: “While not explicitly documented, DOF does have existing procedures in place that require supervisors to conduct quality assurance checks of a percentage of applications in our processing system, PEOPS. We will address this recommendation internally to determine a best course of action going forward and ensure this process is documented in the Application Processing Standard Operating Procedures going forward accordingly.”

12. Require boards of managers of condominiums to file a certificate of abatement annually or an abatement change form.

DOF Response: “As previously stated, we are currently working on an online portal that will include an online change form for condominium/cooperative boards and managing agents to annually review and certify eligibility for the abatement, which should enable us to work with these buildings to ensure abatement eligibility information is accurate both going forward and for current data.”

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit includes condominium owners receiving a Co-op/Condo Abatement as of July 1, 2014. We expanded our Scope for those owners who may have improperly received abatements to calculate the extent and effect of these improper abatements as of July 1, 2012, 2013, and 2015.

To achieve our audit objective, we reviewed DOF's Standard Operating Procedures for Personal Exemptions — Processing an Application to establish the approval process for Fiscal Year 2015. To gain an understanding of the abatement approval process, we interviewed DOF's Deputy Director of Compliance for Exemptions and Abatements. The results were documented in memoranda.

We used the New York State *Real Property Tax Law § 467-a Partial Tax Abatement for Residential Real Property Held in the Cooperative or Condominium Form of Ownership in a City Having a Population of One Million or More, Section 1; Title 19 of the Rules of the City of New York, Chapter 50 – Rule Relating to the Partial Tax Abatement for Residential Real Property Held in the Cooperative or Condominium Form of Ownership*, and the New York State Department of Taxation and Finance's *Assessor's Manual, Volume 4, Exemption Administration Multiple Dwellings § 4.07- RPTL Section 467-a* as audit criteria for eligibility.

We requested a list from DOF of all condominium properties that received the abatement in Fiscal Year 2015. In order to determine the completeness of that file, we utilized the Fiscal Year 2015 Final Assessment roll to extract 50 BBLs that, according to the file received from DOF, did not receive the Co-op/Condo Abatement but are located in developments where the abatement was granted to other units. The June 2014 quarterly tax bill was researched for these BBLs and produced no deviation from the file sent by DOF. The accuracy of the list was tested directly through our audit testing as noted in the next paragraph.

In Fiscal Year 2015, 261,619 Co-op/Condo Abatements were granted, 35,335 of which were granted to condominiums. To determine whether DOF may have improperly granted the Co-op/Condo Abatement to properties owned by a non-person entity, we used data analytics to identify and extract condominium properties with a corporate or LLC name from the file provided by DOF listing all condominium units receiving the Co-op/Condo Abatement in Fiscal Year 2015. We examined ownership records in the New York City Automated City Register Information System (ACRIS) and tax bills for Fiscal Years 2013, 2014, 2015 and 2016, issued every June, for each of the identified properties.

To determine whether DOF may have improperly granted the Co-op/Condo Abatement to non-residential properties, we used data analytics to identify and extract properties with a non-residential building class code from the file provided by DOF listing all condominium units receiving the Co-op/Condo Abatement in Fiscal Year 2015. We examined Fiscal Year 2015 Final

Assessment Rolls for each BBL, which verified building class, and tax bills for Fiscal Years 2013, 2014, 2015 and 2016, issued every June, for each of the identified properties.



City of New York
Department of Finance
nyc.gov/finance

Jacques Jiha, Ph.D.
Commissioner

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January 25, 2016

Ms. Marjorie Landa
Deputy Comptroller for Audit
Office of the City Comptroller
1 Centre Street, Room 1100 North
New York, NY 10007

Re: Audit Report on the New York City Department of Finance's Administration of the Cooperative Condominium Tax Abatement Program (FM14-110A)

Dear Deputy Comptroller Landa,

The Department of Finance (DOF) appreciates the Comptroller's audit findings regarding the administration of the Cooperative Condominium Tax Abatement Program (CCA) and the opportunity to respond to the Draft Report. Our responses to your recommendations are detailed below.

Program Overview

The Cooperative and Condominium Tax Abatement Program (CCA) provides partial tax relief for condo owners and co-op tenant-shareholders to reduce the disparity in property tax paid between residential Class 2 properties (i.e., condominiums and cooperatives) and Class 1 properties (i.e., one, two, and three family homes), which are assessed at a lower percentage of market value. Owners of cooperative units and condominiums who meet the requirements for CCA can have their property taxes reduced. The amount of the abatement is based on the average assessed value of the residential units in the building.

Program Requirements

- The co-op or condo unit must be the owner's primary residence
- Co-op or condo owners cannot own more than three residential units in any one development and one of the units must be the owner's primary residence
- Co-op or condo owners cannot be receiving any of the following exemptions or abatements:
 - J-51 Exemption
 - 420c, 421a, 421b, or 421g
 - Housing Development Fund Corporation (HDFC)
 - Division of Alternative Management Programs (DAMP)
 - Limited Divided Housing Companies, Redevelopment Companies
 - Mitchell-Lama Building
 - Clergy
- Units owned by a business (LLC) are not eligible
- Units held by sponsors or their successors in interest are not eligible

- Units owned by a trust are eligible only if the unit is the primary residence of the beneficiary of the trust, trustee, or life estate holder

Co-Op Benefits Letter:

Each December, the Department of Finance mails Co-op Tax Benefits letters to boards and managing agents outlining each unit's tax savings for personal exemptions and the co-op property tax abatement. Subsequent to December's Co-op Tax Benefit letter, revised letters will be mailed during the tax year to advise of any updates and/or changes. The Co-op Tax Benefit Change form is completed by the managing agent/coop board and is due February 15 for benefits beginning on July 1. If February 15 falls on a weekend, the deadline will be the next business day. Condominium owners are currently notified of their eligibility for CCA via letter and/or their property tax bill.

Responses to Recommendations

1. **DOF should remove the abatements from properties that, according to the DOF ACRIS, are owned by either a corporation or LLC.**

We agree. Our plan for implementation is to remove the abatement benefits as of the upcoming tax year (2016/17) as that is the nearest date that we can remove these benefits and notice the properties that are losing the benefit that you have identified that are currently owned by either a corporation or LLC. Going forward in 2017 our new internal system, Property Tax System (PTS), should prevent such errors from occurring and remove benefits accordingly as of the applicable tax year depending on the transfer date as a report does not exist in our current system to perform this task specifically for CCA. PTS is slated to launch during Tax Year 2017/18, and will completely replace our current system, RPAD. While awaiting the implementation of PTS, we are working closely with the Department of Finance's Finance Information Technology (FIT) group to tighten our strategies to inhibit corporations or LLC from the receiving the abatement, see question 6 for more details.

2. **DOF should recover the \$9,858,638 in erroneous or excessive abatements that were granted to the properties owned by either a corporation or LLC.**

DOF agrees that the abatement benefits should be removed as of the upcoming tax year. We will meet internally with the Commissioner and our Legal department to determine if it is appropriate to recoup benefits from prior years for these properties.

3. **DOF should remove the abatements from properties that are not classified as Tax Class 2 properties.**

We agree. Our plan for implementation is to remove the abatement benefits as of the upcoming tax year (2016/17) as that is the nearest date that we can remove the benefits and notice the properties that are losing the benefit. In addition to PTS, we are currently working on an online portal for condominium/cooperative boards and managing agents to annually review and certify eligibility for the abatement, which should enable us to work with these buildings to ensure abatement eligibility information is accurate both going forward and for current data.

4. **DOF should recover the \$159,710 in erroneous or excessive abatements that were granted to properties not classified as Tax Class 2.**

DOF agrees that the abatement benefits should be removed as of the upcoming tax year. We will meet internally with the Commissioner and our Legal department to determine if it is appropriate to recoup benefits from prior years for these properties.

5. **DOF should consider changing the rules for removing abatements from ineligible properties from the following fiscal year to the next quarterly bill.**

The Department of Finance will analyze and assess what impact quarterly removals would have on cooperative unit shareholders, as they do not receive individual property tax bills for their units. We will discuss your recommendation internally to determine what our plan of action will be to establish a solution that is both fair to taxpayers and fiscally responsible to the City of New York.

6. **DOF should ensure that it implements controls to prevent a property owned by a corporation or LLC from receiving the abatement.**

Currently, we are working with FIT to perform a special data job to identify corporations or LLC's in ACRIS that were not properly uploaded into our Condo/Co-op abatement system. For transfers/sales identified as a corporation or LLC entity, if there is an existing abatement on the unit it will be removed effective tax 2016/2017. In an effort to strengthen our quality control we are working in conjunction with FIT to develop a weekly report that would pinpoint a transfer/sales relating to a corporation or LLC. We will utilize these reports to perform manual checks to ensure abatements are removed as of the appropriate tax year. As previously stated PTS should prevent such errors from occurring and remove benefits accordingly.

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9. **DOF should modify the Real Property Assessment Data to contain computer edit checks that will automatically: a. Reject Co-op/Condo abatements for properties that are owned by corporations and LLCs; b. Ensure that Co-op/Condo abatements are removed from a property**

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Sincerely,



Pierre Dejean, Assistant Commissioner

C: Michael Hyman, First Deputy Commissioner
Timothy Sheares, Deputy Commissioner
Sam Mayer, Senior Director, Internal Audit
Doreen Berksteiner, Deputy Director, Homeowner Tax Benefits