

MEETING MINUTES
SUBJECT TO APPROVAL BY STATE BOARD
NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE
STATE BOARD OF REAL PROPERTY TAX SERVICES

MEETING OF JUNE 15, 2021

A meeting of the State Board of Real Property Tax Services was held via teleconference, as authorized by Executive Order 202.1 and various successor Orders. The following members and staff were present:

Matthew Rand, *Chairman*
Scott Becker
Samuel Casella

Tim Maher, *Acting Secretary of the State Board and Director of Real Property Tax Services*
Joseph Gerberg, *Legal Advisor to the State Board, Office of Counsel*
Brittany Murphy, *Assistant to the State Board, Office of Real Property Tax Services*
Anetta Mazur, *2nd Assistant to the State Board, Office of Real Property Tax Services*

Geoffrey Gloak, *Communication Manager, Office of Real Property Tax Services*
Maryellen Nagengast, *Tax Audit Administrator 1, Office of Real Property Tax Services*
Edward Martorana, *Auditor 3, Office of Real Property Tax Services*
Maryann Enrico, *Associate Accountant, Office of Real Property Tax Services*
Rebecca Bellard, *Associate Accountant, Office of Real Property Tax Services*
Paul Miller, *Tax Policy Analyst 5, Office of Real Property Tax Services*
Tobias Lake, *Senior Attorney, Office of Counsel*

Michael Hrankiowskyj, *Representative for Cullen and Dykman LLP*

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Mr. Rand called the State Board of Real Property Tax Services meeting to order at 11:02 A.M. He introduced the Board members and various Tax Department staff members who were present on the call.

Agenda Item No. I - State Board Administration - Minutes of the February 2, 2021 State Board meeting

On motion of Mr. Casella, seconded by Mr. Becker, Mr. Rand stated that the minutes of the February 2, 2021 Board meeting stand approved and are, hereby, adopted as written.

Agenda Item No. II - State Full Values and Assessment

Mr. Rand asked who will be presenting the resolutions.

Mr. Maher turned the meeting over to Mr. Martorana.

New York American Water Company, Inc.

Mr. Martorana introduced himself. He explained that New York American Water Company, Inc. has filed 5 complaints, complaint numbers 21-1, 21-2, 21-6, 21-9, and 21-10.

Mr. Martorana went on to explain the complaints. They were identical to last years and no additional information was provided this year compared to last year. The complaints seek between a 40-50% reduction for the various jurisdictions which are involved. The complaints contend that The Office of Real Property Tax Services (ORPTS) improperly uses third-party indices. They have no explanation of the misuse. He stated the third-party indices were applied by ORPTS using longstanding and widely accepted procedures and were applied to all similar companies in the same manner.

The complaint states that ORPTS did not adjust for construction costs. However, the company did not provide any costs for adjustment. ORPTS used the methods applied to all similar companies. The company rejects ORPTS use of a 5% intangible value for the use of special franchise property. The use of the intangible value is outlined in ORPTS procedures, is considered reasonable, and is accepted by the courts.

The complaint contends insufficient economic obsolescence was provided. Mr. Martorana then explained the economic obsolescence's that were granted. The complaint objects the use of a depreciation floor. Mr. Martorana explains the floor was applied according to ORPTS procedures. The company also complains that insufficient salvage value was provided.

Mr. Maher paused the meeting to ask who joined the conference.

Mr. Hrankiwskyj from Cullen and Dykman LLP introduced himself and stated he is only listening in and taking notes, and not actually participating in the call.

Mr. Martorana resumed speaking on New York American Water Company and how they provided 3 different reports regarding salvage value. He then spoke about what percentage values the company suggests that ORPTS should use. New York American Water Company has not been able to provide

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how they've calculated those values or why the values vary greatly. ORPTS cannot find a reasonable cause to use an alternative method for salvage value than what they use for all other companies of the same nature. He stated New York American Water Company failed to calculate a value from the allegations they made. They also state ORPTS value is unlawful because it's arbitrary, illegal because it's discriminatory, and unconstitutional because it's applied in a non-uniform basis. These matters of law were all addressed by the hearing officer's report. Mr. Martorana states that staff recommends no change to the special franchise value determined for this company.

Mr. Rand thanked Mr. Martorana and asks if the Board members have any questions.

Mr. Becker wanted to clarify that there has been no additional documentation to support New York American Water Company's conclusions.

Mr. Martorana responded that was correct and nothing has changed besides the percentage that New York American Water Company requests in reduction. Otherwise, the complaint is identical to last year.

Mr. Becker thanked Mr. Martorana.

Mr. Casella asked if New York American Water Company indicated why there was a percentage change in reduction.

Mr. Martorana responded that they did not indicate why.

Mr. Casella thanked Mr. Martorana for his response.

Mr. Rand made a motion to approve resolution 21-14. Mr. Becker seconded the motion.

Mr. Rand mentioned there is not much information that they can base the changes on.

Mr. Becker agreed that there is no support and nothing for the Board to make a different determination than what they made last year.

Mr. Casella agreed with Mr. Becker and Mr. Rand.

Upon the affirmative votes of Messrs. Rand, Becker and Casella, the Board approved and adopted resolution 21-14.

Mr. Rand asked Mr. Martorana to proceed with the next resolution.

Optical Communications Group, Inc.

Mr. Martorana introduced Optical Communications Group, Inc. They filed three complaints, complaint numbers 21-3, 21-4 and 21-12. The complaints are identical to last year's. The request seeks a 75% reduction for one complaint and 80% reduction for the other two complaints.

Mr. Martorana went into details about the history of Optical Communications Group, Inc. and ORPTS. The company objects to the 5% intangible value that is applied to special franchise value. Mr. Martorana stated that this is outlined in ORPTS procedures and considered reasonable and has been accepted by the courts. The complaint objects to the use of a depreciation floor. The floor is applied in importance with ORPTS procedures and is applied to all companies of alike kind in all municipalities across the state.

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The complaints state that insufficient economic and functional obsolescence were provided but they have never requested any economic or functional obsolescence. The complaint also contends that the special franchise value is unlawful, illegal, and unconstitutional. Mr. Martorana stated those were addressed in the Hearing Officer's report and that staff recommend no change to the special franchise value determined for this company.

Mr. Casella makes motion to start a discussion and Mr. Becker seconds the motion.

Mr. Rand asked if there were any questions for Mr. Martorana.

Mr. Casella stated he didn't have any. Mr. Becker agreed and stated he didn't have any questions.

Upon the affirmative votes of Messrs. Rand, Becker and Casella, the Board approved and adopted resolution 21-15.

Corning Natural Gas Corporation

Mr. Martorana described the complaints filed by Corning Natural Gas Corporation. He stated they filed two complaints, complaint numbers 21-5 and 21-8. They request between a 51-53% reduction within the municipalities that these complaints effect. The complaint contends that inadequate functional obsolescence due to the super capacity was applied. They have six-inch steel mains and they contend they can be replaced with two-inch plastic ones. Functional obsolescence was requested and utilizing their peak flow, ORPTS determined that a functional obsolescence of 21% in the Town of Verbana was due, and 2% for the Village of Hammondsport was due and that was granted and applied to their special franchise value. They complained that insufficient obsolescence was applied. Economic obsolescence was requested by the company at 23%. However, they made a few errors in applying ORPTS template. Once it was recalculated, 15% was granted to the company for economic obsolescence. The company alleges that reclamation and interference costs should reduce the tentative assessed values in the City of Corning. They claim these costs add no value to the company's assets and in most cases occur on land that's not owned by the company. The company has not provided any supporting documentation that would indicate ORPTS values incorrectly included property not owned by the company. Mr. Martorana stated that staff recommends no change to the special franchise value for this complaint.

Mr. Rand thanked Mr. Martorana and motioned to adopt resolution 21-16. He asked if there were any questions; there were none.

Upon the affirmative votes of Messrs. Rand, Becker and Casella, the Board approved and adopted resolution 21-16.

Town of Ramapo

Mr. Martorana explained the Town of Ramapo is seeking an increase in special franchise value for the company Phoenix Tower. The town argues that ORPTS tentative special franchise value for Phoenix Tower is improper and cannot be verified because the inventory data is not provided by ORPTS. They further allege the value provided by ORPTS does not include antennas, electrical components and other components attached to the cellular towers. The Town failed to meet its burden to demonstrate that the ten special franchise values were incorrect. They provided an appraisal report that was based on the income method, but the law requires that ORPTS use the cost method. The Town also failed to prove

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that the equipment at the tower site and on the tower belongs to Phoenix Tower International. ORPTS requested supplemental information from Phoenix Tower and the company responded that it only owns the structures and not any of the equipment. ORPTS does not possess the data needed to determine an alternative value. Mr. Martorana explained ORPTS recommends no change to the determined special franchise value.

Mr. Rand asked whose responsibility it is to gather the data related to the true value if the companies do not provide that information.

Mr. Martorana responded that it is the company's responsibility to provide the value. In this case, the company states they do not have the original cost data, and ORPTS will have to find out who owns the equipment that the company contends they don't own, and see if the tax on the equipment is accounted for by whoever owns it. It cannot be based on the income approach that the Town had provided.

Mr. Maher stated that ORPTS will be taking a closer look at this property for the next assessment roll and it is likely the value may change since ORPTS has become aware of additional information.

Mr. Martorana agreed and responded that ORPTS will be taking a closer look at this company not only within this specific municipality, but in all other municipalities now that ORPTS is aware the data they provided may not be sufficient.

Mr. Rand asked if there were any further questions. Mr. Becker and Mr. Casella stated they did not have any.

Upon the affirmative votes of Messrs. Rand, Becker and Casella, the Board approved and adopted resolution 21-17.

Agenda Item No. III - Star Exemption Appeals - General Discussion

Mr. Rand turned the meeting over to Mr. Maher to discuss the STAR appeals.

Mr. Maher asked that Mr. Hrankiowskyj leave the meeting now that the special franchise portion was discussed.

Mr. Hrankiowskyj thanked everyone and left the call.

Mr. Maher confirmed that only Tax Department employees and the State Board Members were left on the call.

Mr. Casella made a motion to move into executive session to protect the confidential information of appellants, which was seconded by Mr. Becker.

Agenda Item No. IV - Executive Session - Discussion of Individual STAR Exemption Appeals

Mr. Maher explained resolutions 21-18 through 21-50 to the Board in executive session.

Agenda Item No. V - STAR Exemption Appeals - Action on Resolutions

The meeting returned to public session.

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Mr. Rand stated resolutions 21-18 through 21-50 had been considered and that a vote could take place.

Mr. Becker made a motion to vote and approve all resolutions as a block.

Mr. Casella seconded the motion and asked if resolution 21-50 can be considered in the same block, or if it had to be treated differently than the other resolutions.

Mr. Gerberg responded that the reason they were split was because it was considered a basic STAR exemption, however the principle is the same and it could be considered in the same block.

Mr. Casella seconded Mr. Becker's motion to approve 21-18 through 21-50 as a block.

Mr. Rand stated that the Tax Department staff had considered every appeal and case of appellants, and the income levels in the relevant year disqualify the appellants from the exemption.

Upon the affirmative votes of Messrs. Becker, Casella and Rand, the Board approved and adopted resolutions 21-18 through 21-50.

Agenda Item No. VI - Privilege of the Floor

Mr. Rand asked if anyone would like to address the Board.

Mr. Casella thanked the Tax Department staff for the easy navigation and organization of the materials.

Mr. Rand asked when the next Board meeting will take place.

Mr. Maher stated the next meeting is Tuesday, July 27th. He said that there will likely be more STAR appeals and it is possible there will be equalization rate appeals.

Mr. Casella questioned whether the meeting materials should be destroyed or recycled.

Mr. Maher stated the materials should be destroyed, not recycled.

Mr. Gerberg agreed the materials should be destroyed because they contain sensitive information.

Mr. Casella made a motion to adjourn the meeting which was seconded by Mr. Becker.

With no further questions or comments, the Board concluded its meeting at 11:49 A.M.

Respectfully submitted,

Tim J. Maher
Acting Secretary of the State Board