

**MEETING MINUTES**  
**NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE**  
**STATE BOARD OF REAL PROPERTY TAX SERVICES**

**MEETING OF JULY 29, 2020**

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*

Geoffrey Gloak, *Communication Manager, Office of Real Property Tax Services*  
Tobias Lake, *Senior Attorney, NYS Department of Taxation and Finance Office of Counsel*  
Jonathan Lack, *Real Property Analyst 2, Office of Real Property Tax Services*  
Maryellen Nagengast, *Tax Audit Administrator 1, Office of Real Property Tax Services*  
Paul Miller *Director of Regional Operations, Office of Real Property Tax Services*

*NOTE: Detailed staff reports/recommendations to the State Board are available upon request. Resolutions of the State Board and the on-demand webcast are available after the meeting date on the State*

## **Meeting Minutes – July 29, 2020**

Mr. Rand called the State Board of Real Property Tax Services meeting to order at 11:10 A.M.

### **Agenda Item No. I – State Board Administration – Minutes of the June 17, 2020 State Board meeting.**

On motion of Mr. Becker, seconded by Mr. Casella, Mr. Rand stated that the minutes of the June 17, 2020 Board meeting stand approved and are, hereby, adopted as written.

### **Agenda Item No. II -Star Exemption Appeals Process**

Mr. Gerberg explained that the appeal process started in 2013. He explained the STAR exemption program in some detail. Mr. Gerberg explained that if taxpayers disagree with the Office of Real Property Tax Services (ORPTS) STAR determination, they have the right to appeal to the State Board of Real Property Tax Services. Mr. Gerberg stated that ORPTS has several appeals to be addressed in the next several months. He asked if there were any questions thus far.

Mr. Rand asked to briefly remind him of the STAR exemption process. He stated that taxpayers previously applied through the assessor's office. He asked if they now apply directly through the state.

Mr. Gerberg stated that as the program evolved, there has been more state involvement. He briefly explained the difference between the STAR exemption and the STAR credit. He stated that once taxpayers are in the exemption program they do not have to reapply, and they continue to remain in the program as long as they are eligible. The assessor removes the STAR exemption if ORPTS states the taxpayers are ineligible.

Mr. Rand asked if ORPTS checks the income of all recipients and decides whether they're eligible or not.

Mr. Gerberg stated that is correct. ORPTS staff verifies the residency, age requirements, and income. He clarified that only STAR exemption appeals are brought to the State Board, not STAR credit appeals. STAR credit appeals are Tax appeals, these are handled by the Tax department.

Mr. Casella asked if there is a timeframe for taxpayers to file these appeals.

Mr. Gerberg stated there is a time limit. ORPTS staff reviews the assessment rolls and if they find someone is getting the exemptions improperly, they will send notice and the taxpayer has 45 days to contest the determination. If the taxpayer does contest, and the denial still stands, ORPTS sends a final denial and the taxpayer has another 45 days to appeal to the Board.

Mr. Casella asked for clarification that there was not a calendar timeframe when the appeals are due.

Mr. Gerberg stated there is no calendar timeframe when the taxpayers must submit an appeal.

Mr. Maher agreed with Mr. Gerberg.

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Mr. Gerberg asked if there were any other questions, there were not.

Mr. Gerberg stated there were 45 appeals in three categories: income (20), age (20) and residency (5). He said that, assuming all appeals would be addressing the Board, there would be too many to fit into a single Board meeting.

Mr. Gerberg proposed suggestions on how to handle the appeals; the Board could give 10 minutes to each appeal or have separate meetings for the different categories. He also pointed out that there isn't a meeting scheduled until November. Additionally, he stated that telephone meetings are not usually appropriate for the appeals. Due the covid-19 pandemic and the Governor's executive order, the Board can meet via teleconference, as long as that portion of the executive order remains in effect. He said the Board could address how to proceed with the meetings in person or via teleconference when needed. He stated, for this meeting, let's assume the Board will be able handle the appeals via teleconference.

Mr. Gerberg summarized with a few questions; would the Board like to schedule meetings between this one and November, and if so, how often would they like them, additionally how many appeals do they think would be reasonable per meeting.

Mr. Rand asked how complex the appeals are.

Mr. Gerberg stated, for the most part, the appeals are straight forward. He said there are laws that must be followed, and the Board does not have the authority to change the laws; only to apply them.

Mr. Casella asked if staff make it clear to the taxpayer when they appeal that the Board cannot change the law.

Mr. Gerberg responded yes, and that due process gives taxpayers the right to appeal.

Mr. Rand asked if the law requires the taxpayers to appear or could the appeal be considered on the documentation alone.

Mr. Gerberg answered that the law states that taxpayers have the right to a hearing with a Board. He said that the Board members do have the authority to set the guidelines for the hearing process. He asked if there were any other questions.

Mr. Casella asked for the other Board members' opinions on the option of setting a time limit for each appeal.

Mr. Becker stated that he thought 10 minutes seemed reasonable. He said, if necessary, they could allow a claim more time. Mr. Rand suggested even five minutes could be adequate for some. Mr. Becker agreed with Mr. Rand. Mr. Becker and Mr. Rand agreed that setting an initial time limit and allowing more time when necessary would be appropriate.

Mr. Rand asked why there were so many more appeals now than there have been in the past.

Mr. Gerberg responded that taxpayers are receiving notices that contain new, user-friendly verbiage and

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appealing seems more accessible to them.

Mr. Rand suggested that the Board could try to handle the appeals in two meetings. Mr. Becker agreed and said the appeal meetings could be split into two; income in one meeting and age and residency in another meeting. Mr. Casella stated that this would work for him.

Mr. Rand asked if the Board members will know before the meeting who will be in attendance.

Mr. Gerberg said yes. He also stated if the taxpayer does not provide their phone number, then they are waiving their right to address the Board.

Mr. Rand and Mr. Becker inquired on how much notice is required for the taxpayers and how much time does the Tax Department need to put the information together.

Mr. Maher responded that the Tax Department would require a few weeks to get everything set up and that maybe 30 days would be appropriate notice for the taxpayers.

Mr. Gerberg stated that at least 21 days seems appropriate.

Mr. Rand asked if the Board should plan on September and give a 30-day notice to the taxpayer?

Mr. Rand, Mr. Becker and Mr. Casella discussed what timeframe works best. They agreed to split the meetings up into two; the first to discuss income and the second to discuss age and residency. They agreed that the first meeting will be sometime in October and the second meeting will be used for the November 10<sup>th</sup> Board meeting. They agreed the October date would be decided after the current meeting, by email.

On motion of Mr., Becker, seconded by Mr. Casella, the Board approved resolution 20-08 contingent upon the correction of changing item I to item II.

### **Agenda Item No. III – Privilege of the Floor**

Mr. Rand asked if there was anyone else who would like to address the Board. Mr. Gerberg asked for clarification on whether the Board decided on 5 minutes per case or 10 minutes per case.

The Board agreed that 10 minutes to present each case is enough.

With no further questions, on motion of Mr. Casella, seconded by Mr. Becker, the Board concluded its meeting.

Respectfully submitted,

Tim Maher  
Acting Secretary of the State Board