

NASSAU COUNTY LEGISLATURE

NORMA GONSLAVES,
PRESIDING OFFICER

GOVERNMENT SERVICES &
OPERATIONS COMMITTEE

HOWARD KOPEL,
CHAIRMAN

1550 Franklin Avenue
Mineola, New York

December 9, 2013
2:22 p.m.

REGAL REPORTING SERVICES
516-747-7353

A P P E A R A N C E S:

HOWARD KOPEL (Not Present)
Chair

RICHARD NICOLELLO (Sitting in for Howard Kopel)

DENISE FORD
Vice-Chair

FRANCIS BECKER (Not Present)

MICHAEL VENDITTO (Sitting in for Francis Becker)

DENNIS DUNNE

WAYNE WINK
Ranking

DAVID DENENBERG

ROBERT TROIANO

WILLIAM J. MULLER III, Clerk

LIST OF SPEAKERS

DANIEL VALENTINO 8
MAURICE CHALMERS 23

2 CHAIRWOMAN FORD: I call the Government
3 Services and Operations Committee to order. I'm
4 going to ask the clerk to call the roll call of
5 the Government Services and Operations Committee.

6 CLERK MULLER: Legislator Troiano?

7 LEGISLATOR TROIANO: Here.

8 CLERK MULLER: Legislator Denenberg?

9 LEGISLATOR DENENBERG: Here.

10 CLERK MULLER: Ranking Member,
11 Legislator Wink?

12 LEGISLATOR WINK: Here.

13 CLERK MULLER: Legislator Dunne?

14 LEGISLATOR DUNNE: Here.

15 CLERK MULLER: Legislator Venditto
16 substituting for Legislator Becker?

17 LEGISLATOR VENDITTO: Here.

18 CLERK MULLER: Legislator Nicoletto
19 substituting for Chairman Kopel?

20 LEGISLATOR NICOLELLO: Here.

21 CLERK MULLER: Legislator Ford serving
22 as chairwoman of the committee?

23 LEGISLATOR FORD: Here.

2 CLERK MULLER: Okay.

3 CHAIRWOMAN FORD: Thank you.

4 I'm going to call Clerk Item 556-13, a
5 local law to sunset the provisions of §6-41.0 of
6 the Nassau County Administrative Code requiring
7 the owners of Class Four properties to take
8 certain actions.

9 Could I have a motion?

10 LEGISLATOR DUNNE: So moved.

11 LEGISLATOR VENDITTO: Second.

12 CHAIRWOMAN FORD: So moved by Legislator
13 Dunne, seconded by Legislator Venditto.

14 The second item is 557-13, a local law to
15 amend the Nassau County Administrative Code to
16 require that annual productions of income and
17 expense statements by income producing property
18 owners and to amend the civil penalty associated
19 with the failure to provide income and expense
20 statements as required.

21 Could I have a motion?

22 LEGISLATOR DUNNE: So moved.

23 LEGISLATOR VENDITTO: Second.

24 CHAIRWOMAN FORD: So moved by Legislator
25 Dunne, seconded by Legislator Venditto.

Who do we have to speak on this today?

LEGISLATOR NICOLELLO: I'd like to make an opening statement on behalf of the Majority.

The local law before us would amend the Administrative Code to require all income producing properties in Nassau County to provide by electronic means certified income and expense statements to the Department of Assessment by April 1 of each year.

The goal of this legislation is to provide the department with all of the information it needs to correctly value commercial properties and minimize errors that have cost this county nearly \$1.5 billion to date. Failure to provide this information would result in a fine based on a percentage of the fair market value of the property as that value is determined by the assessor. Continued noncompliance with result in higher fines. Fines would become liens on the underlying properties.

The goal of this law is to assist the Department of Assessment to develop a complete database of income and expense statements for incoming producing properties and so allow the

1 Department of Assessment to provide more accurate
2 assessments, enhance the department's modeling
3 capabilities, determine trends, identify
4 outliers, and track more effectively changes to
5 income producing properties as they occur. It
6 would also allow the department to enhance the
7 effectiveness of the Adapt system, as this system
8 would have better and more timely information
9 about the properties it assesses. This law is
10 similar and, in fact, has been adapted from a law
11 that exists in New York City.
12

13 I would like to add for the record that
14 this law has been introduced by Presiding Officer
15 Norma Gonsalves and Alternate Deputy Presiding
16 Officer Howard Kopel as a legislative initiative.
17 The administration is reviewing this information
18 and deserves an opportunity for review.

19 Our staff has met with the attorneys
20 representing the minority legislators to discuss
21 the form and substance of this proposal, and we
22 have received a letter from Minority Chief of
23 Staff David Gugerty that we would also like to
24 take the time to review. At the appropriate time
25 I will ask -- we will ask that the minority add

the substance of those comments to the record.

Accordingly, it is our intention to tee these items up for a hearing to be held on December 19 so that the administration can complete its review and we can complete our review of the discussions we've had with the minority staff. Any information not immediately available to us here can be requested by the Full Legislature on the 19th.

To that end, the administration has provided attorney Daniel Valentino to assist us in our understanding of the law as it stands currently and offer his insights into the law that is before us.

Mr. Valentino.

MR. VALENTINO: Yes. Hi. Good afternoon. My name is Dan Valentino. I am a deputy county attorney who is assigned to the Nassau County Department of Assessment.

Currently, we have an income and expense provisions in our Admin Code, it's §6-3.0. It provides for certain property owners, I believe Class 2 and Class 4, to provide us with income and expense statements. We have to request that

2 information. If the commercial property owner or
3 Class 2 property owner doesn't comply, there is a
4 \$500 fine that attaches.

5 LEGISLATOR NICOLELLO: What is the
6 current valuation method used by the Department
7 of Assessment for commercial properties?

8 MR. VALENTINO: Income and expense.

9 LEGISLATOR NICOLELLO: How are the
10 assessments for commercial properties derived?

11 MR. VALENTINO: Income and expense.

12 LEGISLATOR NICOLELLO: What criteria
13 does the department evaluate in determining its
14 value?

15 MR. VALENTINO: We use income and
16 expense.

17 LEGISLATOR NICOLELLO: When a tentative
18 roll is created what calendar year is it based
19 on?

20 MR. VALENTINO: If you're talking about
21 this tentative roll that we're preparing right
22 now, it would be based for the 15/16 year.

23 LEGISLATOR NICOLELLO: What are the
24 current requirements of property owners with
25 regard to the provision of income and expense

1 statements?

2
3 MR. VALENTINO: That's what we have in
4 our Admin Code right now, it's \$630.0. We send
5 out a request for this information. If the
6 commercial property owner doesn't comply there is
7 a \$500 fine that attaches.

8 LEGISLATOR NICOLELLO: Does the
9 department request income and expense statements
10 for all commercial properties in the county?

11 MR. VALENTINO: That's correct.

12 LEGISLATOR NICOLELLO: It does?

13 MR. VALENTINO: Hmm, hum.

14 LEGISLATOR NICOLELLO: What is -- the
15 current fine you mention is \$500, correct?

16 MR. VALENTINO: Correct.

17 LEGISLATOR NICOLELLO: The fine applies
18 regardless of the size of the commercial
19 property?

20 MR. VALENTINO: Correct.

21 LEGISLATOR NICOLELLO: In terms of
22 compliance with the existing requirements, on a
23 percentage basis, what is the percentage of
24 requests that receive responses?

25 MR. VALENTINO: We have generally 60

percent.

LEGISLATOR NICOLELLO: Sixty percent respond with their income and expense?

MR. VALENTINO: Correct.

LEGISLATOR NICOLELLO: To the satisfaction of the Department of Assessment or they just respond in some form?

MR. VALENTINO: They respond in some form, most, almost -- compliance is pretty good. I don't think we really have too much within those 60 percent where we request additional. But I would have to do some research on that for you.

LEGISLATOR NICOLELLO: In terms of the ones that do respond, do you know, percentage wise, is it the larger properties that is providing this information, is it the smaller commercial entities?

MR. VALENTINO: I would have to look that up for you. I just know the compliance rate. You want it broken down?

LEGISLATOR NICOLELLO: Yeah. Just in general to see what the trends were. Obviously, one of the concerns with this law is that the

2 commercial property owners, the larger properties
3 have less of an incentive because \$500 is
4 peanuts, it's not really a fine. It would be
5 interesting for us to know if the larger owners
6 are complying less frequently or less than the
7 smaller owners.

8 MR. VALENTINO: Okay. I can get that
9 information for you.

10 LEGISLATOR NICOLELLO: Okay. Thank you.
11 Do we actually collect the fines from the
12 property owners?

13 MR. VALENTINO: Yes.

14 LEGISLATOR NICOLELLO: Do you know how
15 much we receive, just generally, in these fines a
16 year?

17 MR. VALENTINO: Not offhand. I would
18 have to look that up.

19 LEGISLATOR NICOLELLO: The Department of
20 Assessment uses the Adapt system to help create
21 the assessment roll, correct?

22 MR. VALENTINO: That's correct.

23 LEGISLATOR NICOLELLO: How much has the
24 county spent on that system?

25 MR. VALENTINO: I don't know. Millions.

2 I have no idea on the exact figure or even a
3 ballpark.

4 LEGISLATOR NICOLELLO: Does the Adapt
5 system serve as a repository for income and
6 expense data?

7 MR. VALENTINO: Yes.

8 LEGISLATOR NICOLELLO: What else does it
9 do?

10 MR. VALENTINO: Adapt is a modeling
11 system that we use that takes the income and
12 expense and it spits out a value. ARC uses the
13 Adapt system, the treasurer and the county
14 attorney's office. So it performs many different
15 functions but valuation is probably primary among
16 them.

17 LEGISLATOR NICOLELLO: If the income
18 expense data is not provided then there is a gap
19 in Adapt for the purposes of assessment, is that
20 correct?

21 MR. VALENTINO: That's correct.

22 LEGISLATOR NICOLELLO: What does the
23 department do to fill that gap?

24 MR. VALENTINO: We use comparable
25 properties that have provided an income and

expense and we estimate the value.

LEGISLATOR NICOLELLO: Does ARC have access to Adapt?

MR. VALENTINO: Yes.

LEGISLATOR NICOLELLO: When an assessment roll is finalized, when does it become effective? I think we got this already. Let me move on.

Is it possible that changes in the property, like vacancies and occupancies, from the date that the roll becomes final and the date that it is implemented may impact the roll?

MR. VALENTINO: Certainly.

LEGISLATOR NICOLELLO: How is that information identified now?

MR. VALENTINO: Based on the information that they submit to ARC, if they can test the assessed value.

LEGISLATOR NICOLELLO: So is ARC now able to identify readily, timely data on occupancies, vacancies, rents that were not captured in the tentative assessment roll as it was prepared?

MR. VALENTINO: If they file a grievance

2 with ARC and they submit that information, yes.

3 LEGISLATOR NICOLELLO: If they submit
4 that information.

5 MR. VALENTINO: If they submit that
6 information.

7 LEGISLATOR NICOLELLO: What about
8 properties that haven't submitted their income
9 and expense reports?

10 MR. VALENTINO: We wouldn't have that
11 information. If they don't grieve with ARC there
12 would be no way for us to know, or unless they've
13 submitted the income and expense, if they're one
14 of the 60 percent.

15 LEGISLATOR NICOLELLO: Have you reviewed
16 this law as it relates to the New York City law?

17 MR. VALENTINO: Pretty much parallels
18 New York City's law.

19 LEGISLATOR NICOLELLO: Are there any
20 legal impediments that you know of to this law
21 being implemented here in Nassau County?

22 MR. VALENTINO: I don't foresee any, but
23 I'd have to research it.

24 LEGISLATOR NICOLELLO: With respect to
25 §6-41 of the Charter and the proposal to sunset

1 this provision, is the administration still
2 reviewing that proposal as well?

4 MR. VALENTINO: Yes.

5 LEGISLATOR NICOLELLO: Okay. Are you
6 prepared to give a brief synopsis of that law,
7 §6-41?

8 MR. VALENTINO: 6-41 dealt with ARC and
9 it dealt with a reasonable basis proposal. It
10 was the information a property owner had to
11 submit if they grieved with ARC. If the
12 property's assessed value was within 87½ percent,
13 that was considered a reasonable basis proposal
14 and they didn't have to submit any accompanying
15 documentation. If they wanted to receive a
16 greater reduction they would have to submit a
17 certified appraisal.

18 LEGISLATOR NICOLELLO: If the income and
19 expense law were to pass, would ARC have a
20 complete set of information from which it could
21 jump start its review?

22 MR. VALENTINO: The income and expense
23 would be a good start. I'm sure there would be
24 additional information that they would request.
25 It's tough to speak in generalities.

2 LEGISLATOR NICOLELLO: But it would be
3 helpful information to ARC?

4 MR. VALENTINO: Incredibly, yes.

5 LEGISLATOR NICOLELLO: That's it for me
6 for now.

7 CHAIRWOMAN FORD: Any other legislators?
8 Legislator Denenberg.

9 LEGISLATOR DENENBERG: Thanks. Mr.
10 Valentino, right now the current law, are income
11 and expense reports required to be filed with the
12 county?

13 MR. VALENTINO: If the county sends it
14 out, which we do.

15 LEGISLATOR DENENBERG: The County has to
16 request an income and expense report and then an
17 income and expense report has to be filed,
18 correct?

19 MR. VALENTINO: Correct.

20 LEGISLATOR DENENBERG: And that
21 information is requested by the Department of
22 Assessment?

23 MR. VALENTINO: Correct.

24 LEGISLATOR DENENBERG: And if the income
25 and expense report is sent out -- I'm sorry. Let

1 me just make sure. Routinely then, the
2 Department of Assessment, for commercial
3 property, would request an income and expense
4 report, right?

5
6 MR. VALENTINO: Correct.

7 LEGISLATOR DENENBERG: And you said
8 about 60 percent of the properties do provide an
9 income and expense report?

10 MR. VALENTINO: That's correct.

11 LEGISLATOR DENENBERG: And if they do
12 not provide an income and expense report there
13 would be a \$500 fine right now?

14 MR. VALENTINO: Correct.

15 LEGISLATOR DENENBERG: So this law would
16 increase the fine for certain properties,
17 depending on what the fair market value of the
18 property is?

19 MR. VALENTINO: That's the way I
20 understand it.

21 LEGISLATOR DENENBERG: Okay. And then,
22 moreover, this law would say that the income and
23 expense report would have to be provided to the
24 Department of Assessment with or without a
25 request?

2 MR. VALENTINO: That's correct.

3 LEGISLATOR DENENBERG: When was the last
4 time that the Department of Assessment evaluated
5 commercial properties?

6 MR. VALENTINO: Before the freeze. Are
7 you talking about doing a countywide revaluation?

8 LEGISLATOR DENENBERG: Correct.

9 MR. VALENTINO: It was the 12/13 roll
10 was the last one. So probably before January 2,
11 2011.

12 LEGISLATOR DENENBERG: So in 2010 we did
13 a revaluation? The first year of the Mangano
14 Administration we did a revaluation?

15 MR. VALENTINO: The first year of the
16 Mangano Administration. He took over on January
17 2, 2011.

18 LEGISLATOR DENENBERG: No. I'm sorry.
19 I hate to correct you.

20 MR. VALENTINO: Was it 2010?

21 LEGISLATOR DENENBERG: He took over on
22 January 2, 2010.

23 MR. VALENTINO: I apologize.

24 LEGISLATOR DENENBERG: So can you change
25 your answer now based on that?

2 MR. VALENTINO: No. I don't change my
3 answer based on that. The 12/13 roll was the
4 last roll that we had a revaluation.

5 LEGISLATOR DENENBERG: You did just
6 change your answer then. So the last revaluation
7 would have been values as of January 1, 2010,
8 correct?

9 MR. VALENTINO: The 12/13 would be
10 January 2, 2011.

11 LEGISLATOR DENENBERG: So in '10 we
12 updated the valuations or re-evaluated in '10,
13 the first year of the Mangano Administration?

14 MR. VALENTINO: Correct.

15 LEGISLATOR DENENBERG: I thought --

16 MR. VALENTINO: January 2, 2010 there
17 was a reval that was done. It was using the
18 Adapt system.

19 LEGISLATOR DENENBERG: Okay. So that's
20 2010. January 2, 2010 not '11.

21 MR. VALENTINO: January 2, 2010 would be
22 for the '11/12 roll.

23 LEGISLATOR DENENBERG: Correct.

24 MR. VALENTINO: There was a reval done
25 on that roll.

2 LEGISLATOR DENENBERG: Okay. And then
3 the following year, January 2, 2011, was for
4 '12/13.

5 MR. VALENTINO: Correct.

6 LEGISLATOR DENENBERG: And that was the
7 first year of the freeze, wasn't it?

8 MR. VALENTINO: Correct. There were
9 adjustments that were made but it would still be
10 considered a revaluation.

11 LEGISLATOR DENENBERG: Okay. So ARC --
12 not ARC. Department of Assessment, if we adopt
13 this law, would be requiring income and expense
14 statements to be filed every year even though
15 assessments have been frozen for the last four
16 years.

17 MR. VALENTINO: Correct. The
18 information is still useful though in valuing,
19 especially since you have to trend that
20 information because of the lag.

21 LEGISLATOR DENENBERG: So even though
22 where the Department of Assessment itself is
23 freezing assessed values for at least a four year
24 period, right, we've frozen it now since 2010 and
25 we're about to come out with 2014 numbers for

2 '15/16, correct?

3 MR. VALENTINO: Correct.

4 LEGISLATOR DENENBERG: And the numbers
5 we come out with January 2, 2014 are frozen from
6 '13, '12, '11, correct?

7 MR. VALENTINO: Correct.

8 LEGISLATOR DENENBERG: But we will
9 require our small businesses and large businesses
10 to have an income and expense statement filed
11 every year under this law, correct?

12 MR. VALENTINO: That's the way I
13 understand the law.

14 LEGISLATOR DENENBERG: Right now we
15 would require an income and expense statement to
16 be filed every year if the Department of
17 Assessment requests such.

18 MR. VALENTINO: Correct.

19 LEGISLATOR DENENBERG: Do we request it
20 every year?

21 MR. VALENTINO: Yes.

22 LEGISLATOR DENENBERG: Even with the
23 freeze we've been requesting it?

24 MR. VALENTINO: Yes.

25 LEGISLATOR DENENBERG: How much -- you

say compliance it 60 percent, correct?

MR. VALENTINO: Yes.

LEGISLATOR DENENBERG: So 40 percent then would be noncompliance, correct?

MR. VALENTINO: Correct.

LEGISLATOR DENENBERG: How much money do we collect in those \$500 fines?

MR. VALENTINO: I wouldn't know. I don't know that figure offhand. I would have to look that up for you.

LEGISLATOR DENENBERG: Can we get that?

MR. VALENTINO: Yes.

LEGISLATOR DENENBERG: Would we collect it from everyone who doesn't file an income and expense statement?

MR. VALENTINO: Yes.

LEGISLATOR DENENBERG: Okay. We have the Office of Legislative Budget Review here. I would make a request to the -- Mr. Chalmers. Mr. Chalmers can we look up how much the county has collected let's say over the last four years, right, 2010, '11, '12, and '13, how much we've collected in terms of penalties for not filing an income and expense statement.

MR. CHALMERS: We'll get you that information, yes.

LEGISLATOR DENENBERG: I'm sorry?

MR. CHALMERS: I said absolutely. We'll get you that information.

LEGISLATOR DENENBERG: I'd like to know the percentage also of delinquent filers that we collect from.

MR. CHALMERS: Not a problem.

LEGISLATOR DENENBERG: Do you understand the question?

MR. CHALMERS: Yes.

LEGISLATOR DENENBERG: Mr. Valentino, you can give us the information as well. So I'm asking how much did we collect and what percentage of the delinquent filers do we collect from. Okay?

MR. VALENTINO: Okay.

LEGISLATOR DENENBERG: Now, in terms of total numbers, you said 60 percent of the commercial tax property owners comply, 40 percent don't. I'm not trying to stick you to that number. But what's the total number of commercial property owners that we're talking

about?

MR. VALENTINO: Class 2 and Class 4? I think a ballpark number, probably around 20,000. I was close. 17.

LEGISLATOR DENENBERG: 17,000.

MR. VALENTINO: Yes.

LEGISLATOR DENENBERG: Okay. So 40 percent is, let's say, 7,000, so that could be 500 times 7,000, whatever that ends up being. I think that's 350,000 or 3.5 million; I might be off by a zero. I think it's 3.5 million, right? 7,000 being delinquent, \$500 each, so that's 3.5 million, isn't it? 350,000. Okay.

So here -- with this new law what would the fine be?

MR. VALENTINO: The way I understand it, it would be scaled. It would be based on a percentage of the fair market value of the property. There would be increases for however long it takes for the person to comply.

LEGISLATOR DENENBERG: Now, the Department of Assessment updates -- we haven't seen an update in the new administration or a revaluation, if you will, in the current -- in

2 the Mangano Administration we haven't seen a
3 revaluation yet, correct?

4 MR. VALENTINO: Correct, to an extent.

5 LEGISLATOR DENENBERG: I'm not sure why
6 we would ask for an income and expense statement
7 every year and subject property owners to a fine
8 every year when we're not updating the assessment
9 roll every year. Do you have any comment on
10 that? And I know this isn't your law.

11 MR. VALENTINO: I would imagine the
12 information would be useful in trending.

13 LEGISLATOR DENENBERG: If we're not
14 doing a revaluation -- I know we use the income
15 and expense to determine a fair market value,
16 correct?

17 MR. VALENTINO: On the commercial
18 properties, correct.

19 LEGISLATOR DENENBERG: Now, what is the
20 Assessment Review Commission, when there's a
21 challenge, what does the Assessment Review
22 Commission use to determine value?

23 MR. VALENTINO: The Assessment Review
24 Commission uses the income and expense, and
25 pursuant to 6-4.1 they would use a reasonable

basis proposal. They would use a certified appraisal; they would use everything that goes along with that.

LEGISLATOR DENENBERG: I had proposed a law, it was Item 285-10, and it's been sitting around and not called for four years -- my co-sponsor was Legislator Wink -- and we actually put some of the onus on the Department and the Assessment Review Commission to substantively review challenges by the deadline to establish the roll. So, for example, if the law went into effect in January 2014, the Department of Assessment will give a tentative roll for '15/16, correct?

MR. VALENTINO: That's the current process, correct.

LEGISLATOR DENENBERG: And that roll is finalized April 2015, correct?

MR. VALENTINO: That's correct.

LEGISLATOR DENENBERG: So any challenge on the tentative roll filed in January or February 2014, if those challenges were reviewed, settled or finally decided by April 1, 2015, the results of that settlement or that substantive

1 review or that final decision could go into the
2 final roll to avoid, in that case, a refund,
3 correct?
4

5 MR. VALENTINO: That's correct.

6 LEGISLATOR DENENBERG: Having the income
7 and loss -- the income and expense statement
8 would help the Assessment Review Commission,
9 correct?

10 MR. VALENTINO: Correct.

11 LEGISLATOR DENENBERG: Now, one of the
12 items that would be in the Denenberg and Wink law
13 would be that if the income and expense statement
14 were not provided you're not entitled to a
15 reduction.

16 MR. VALENTINO: Legislation of that
17 nature has been tried in other jurisdictions;
18 unfortunately, you can't require that type of
19 information.

20 LEGISLATOR DENENBERG: Well the law
21 6.401 with the reasonable basis requires an
22 appraisal.

23 MR. VALENTINO: A certified appraisal.

24 LEGISLATOR DENENBERG: Yeah. We're
25 requiring a certified appraisal but saying we're

2 not allowed to require an income and expense
3 statement that we're requiring anyway?

4 MR. VALENTINO: More information is
5 helpful. We are requiring it, and it's being
6 complied, to my knowledge.

7 LEGISLATOR DENENBERG: Since we're
8 requiring an appraisal and we require an income
9 and expense statement and we require now an
10 appraisal to get a reduction, I certainly think
11 acquiring an income and expense statement to get
12 a reduction when we're now going to raise the
13 fine to 500, when we already write letters from
14 the Department of Assessment asking for the
15 income and expense statement, we have a law that
16 apparently hasn't been challenged for two years
17 requiring an appraisal, I think Legislator Wink
18 and myself were on to something in terms of
19 requiring the income and expense statement before
20 you could get a reduction; that's less onerous
21 than an appraisal, I would believe.

22 MR. VALENTINO: More information always
23 helps.

24 LEGISLATOR DENENBERG: Too bad that that
25 law hasn't been called. We're hoping that that

2 law is called now because before we put more
3 requirements on our small business or large
4 business, on the people paying our property
5 taxes, I think it's incumbent upon the department
6 to do as good a job as possible in the initial
7 evaluation of properties, but it's also incumbent
8 upon the Assessment Review Commission to utilize
9 the information which, by and large, they have.
10 Even with 60 percent compliance there's a lot of
11 income and loss statements there. Even with the
12 reasonable basis and the appraisals, you would
13 think that information is there. So I certainly
14 think that myself and Legislator Wink trying to
15 put the onus on the Assessment Review Commission
16 to substantively review these cases within a year
17 would help us. I don't know if you have a
18 comment. I know you don't work for the
19 Assessment Review Commission.

20 MR. VALENTINO: More information always
21 helps.

22 LEGISLATOR DENENBERG: When the
23 Assessment Review Commission makes a decision,
24 have they settled any cases, near as you could
25 tell, at the Assessment Review Commission in the

last three years?

MR. VALENTINO: I'm sure they settled cases. I don't have the exact statistics if that's what you're looking for.

LEGISLATOR DENENBERG: Yeah. I'd like to know that. How many cases have been settled by the Assessment Review Commission in the last three years and which of those cases were before the roll was finalized? So some settlements are just refund, some settlements might have been before the roll is finalized.

As the attorney or county attorney assigned to the Department of Assessment, does the Department of Assessment get the numbers from the Assessment Review Commission in terms of a settlement or a final determination on a challenge to use for your valuation for the following year?

MR. VALENTINO: Yes.

LEGISLATOR DENENBERG: Okay. And how does that happen? What's the process for that?

MR. VALENTINO: I don't know the process specifically because I only deal with the legalities of it. This is more of a valuation

2 concern. But I believe that they send certain --
3 they have access to certain shared drives, I
4 believe, and it's also spreadsheets are sent,
5 maybe, that contain all of the reductions that
6 allow assessment to consider what ARC has
7 reviewed and to carry those reductions forward.

8 LEGISLATOR DENENBERG: So I'd like to
9 know -- I'd like to know how many settlements
10 there have been since 2010, '11, '12, '13, the
11 same four. So I'm asking the number of fines,
12 what percentage of the owners that didn't comply
13 with the existing law actually received a fine
14 and paid it, and then I'd like to know how many
15 settlements ARC has had since 2010, both after a
16 refund would apply and before and then how that
17 information was used by the Department of
18 Assessment.

19 But I do think it's incumbent upon us, if
20 we're asking for -- we're really asking for
21 information we already asked for then. The
22 income and expense statement we already asked
23 for, correct?

24 MR. VALENTINO: That's correct.

25 LEGISLATOR DENENBERG: The major change

would be the fine would be increased?

MR. VALENTINO: The way I understand it, yes.

LEGISLATOR DENENBERG: Okay. So myself and Legislator Wink's law would have said that you can't get a reduction without submitting the income and expense statement. But the onus was then put on ARC to use the information to substantively review each challenge within that year period before we get to a final roll. I'll send you a copy so you can look at that law as well. Counsel will send that to you.

Thank you very much.

MR. VALENTINO: No problem. Thank you.

LEGISLATOR DENENBERG: Finally, I would ask for a list of those assessed values for this year or for the last four years where the Department, the Department of Assessment adjusted -- we've been in a frozen -- this will be the fourth year of a frozen assessment roll, correct?

MR. VALENTINO: I believe it's the third. It could be the fourth, though.

LEGISLATOR DENENBERG: Okay. '14 would be the fourth, '13 would be the third, '12 would

2 be the second, and '11 the first, correct?

3 MR. VALENTINO: There were certain
4 tweaks -- '12 was a reval year, as we discussed
5 before. '13, there were certain changes made to
6 the roll, whether you consider that a revaluation
7 is up for debate.

8 LEGISLATOR DENENBERG: But that would
9 have been the roll set in '11 then, correct?

10 MR. VALENTINO: Correct.

11 LEGISLATOR DENENBERG: So I'm saying
12 since -- in January '14 we're setting the roll
13 for '15/16. So the roll set -- that will be set
14 tentatively January '14, the roll set tentatively
15 January '13, January '12, January '11, we're
16 talking frozen, correct?

17 MR. VALENTINO: Correct to an extent.

18 LEGISLATOR DENENBERG: Okay. Give me a
19 list of those properties that the Department
20 updated, didn't freeze, updated based on
21 information from ARC regarding a settlement or a
22 final determination.

23 MR. VALENTINO: Okay.

24 LEGISLATOR DENENBERG: I want to see
25 what we've changed during this freeze period

2 because of a determination that was made at the
3 ARC level or in court for that matter.

4 MR. VALENTINO: So you would want the
5 12/13 and the 13/14.

6 LEGISLATOR DENENBERG: 14/15 and 15/16
7 as well then.

8 MR. VALENTINO: 15/16 we haven't
9 published yet, but we could get that to you.

10 LEGISLATOR DENENBERG: It's going to be
11 January '14, correct?

12 MR. VALENTINO: Yeah. But we're still
13 making changes to the roll as we speak.

14 LEGISLATOR DENENBERG: If you know ones
15 we're making changes because of something ARC
16 did, I'd like to know.

17 MR. VALENTINO: Okay.

18 LEGISLATOR DENENBERG: I'd like to know
19 that ARC is reporting to the Department of
20 Assessment and the Department of Assessment is
21 updating a value based on determinations that
22 were made by ARC as a settlement or final
23 determination or by a court also based on a
24 settlement. I'd like to know how many
25 settlements -- I've already asked how many

2 settlements there've been in the last four years,
3 meaning '10, '11, '12, '13, whether it's for less
4 than 100,000 or more. Okay?

5 MR. VALENTINO: Okay.

6 LEGISLATOR DENENBERG: Maurice, to the
7 extent you could get that information -- Mr.
8 Chalmers, I'm sorry -- to the extent you could
9 get this information, I'd appreciate it as well.
10 Okay?

11 MR. CHALMERS: Sure.

12 LEGISLATOR DENENBERG: And at this point
13 I'm not really sure, aside from increasing a
14 fine, what we're doing in this law. But it seems
15 to me that we're just changing a flat \$500
16 penalty to a percentage. And what I'd like to
17 see is the Denenberg-Wink Law, which would put
18 then more onuses on ourselves, Nassau County
19 Departments of Assessment Review Commission and
20 Assessment, to actually do what we should do with
21 the income and expense statement. I also think
22 that rather than increasing fines, having someone
23 who already has to now do an appraisal based on a
24 law two years ago provide the income and expense
25 statement if they want to see a reduction, let

2 alone avoid a fine, that that should really be
3 put into law.

4 Thank you.

5 CHAIRWOMAN FORD: I just have -- mine
6 are easy questions.

7 Just for my clarification. The income
8 and expense information that we're asking on an
9 annual basis, is this added -- this is not an
10 added step to any of the businesses. Is this
11 information that they must provide to the
12 government, the federal government and the state
13 government?

14 MR. VALENTINO: That's the way I
15 understand it. Yes.

16 CHAIRWOMAN FORD: Actually, so they're
17 just going to add us to the list of sending over
18 all the information that they have to send, we're
19 just going to be another government level that
20 they have to send the information to.

21 MR. VALENTINO: I believe that's
22 correct.

23 CHAIRWOMAN FORD: And then what happens,
24 like, during the frozen time, the four year
25 period when we're not going to raise the

2 assessments, if a company does extremely well, I
3 mean their assessment still basically remain the
4 same, correct?

5 MR. VALENTINO: Correct. Unless they've
6 made physical improvements. Unless they've
7 erected a whole new building, unless there's been
8 some substantive physical change in the property.

9 CHAIRWOMAN FORD: And that would be
10 basically, like, in the case of homeowners, that
11 if a homeowner decides to put an additional onto
12 his or her house then the assessment value would
13 change, of course. If a business all of a sudden
14 has this fantastic year of selling or whatever
15 and they bring in a lot of income, it doesn't
16 impact their assessed value, correct?

17 MR. VALENTINO: That's correct.

18 CHAIRWOMAN FORD: And they would only
19 incur the fines if they do not send in the income
20 and expense report, something that they have to
21 file every year with the federal government,
22 correct?

23 MR. VALENTINO: That's correct.

24 CHAIRWOMAN FORD: One last thing. This
25 probably really doesn't have anything to do with

2 assessment.

3 But provided that this law is passed and
4 the businesses, all commercial properties
5 throughout Nassau County have to send in an
6 income and expense report, this would obviously
7 give us, here in the county, a better glimpse,
8 review of how businesses are doing throughout the
9 county, correct?

10 MR. VALENTINO: That's correct. I would
11 only hedge in once send that it's going to be
12 confidential information that we are receiving,
13 so we really can't communicate how individual
14 businesses are fairing. This could only be used
15 for valuation purposes and there would be limited
16 people who would have access to these documents.
17 Maybe we could make a broadly based comment, but
18 it would never be particularized as to this
19 particular property as doing great.

20 CHAIRWOMAN FORD: I didn't know whether
21 or not you could share that information.

22 MR. VALENTINO: No.

23 CHAIRWOMAN FORD: So that you would know
24 that basically businesses are doing well. So it
25 would be confidential.

1
2 MR. VALENTINO: Yes.

3 CHAIRWOMAN FORD: I thought maybe that
4 it would be able to be shared so that we know if
5 businesses or if Nassau County is doing much
6 better businesswise.

7 MR. VALENTINO: We might be able to
8 speak broadly but we can never speak with
9 particular property because they already have
10 these concerns about disclosing this financial
11 information. We try and exempt it from FOIL
12 because we want compliance. We want people to
13 submit this. If they know we're commenting on
14 it, I think they would be less likely to submit
15 it.

16 CHAIRWOMAN FORD: But then you would
17 know just, like, broadly --

18 MR. VALENTINO: Broadly, yeah.

19 CHAIRWOMAN FORD: and be able to say
20 that business has picked up in Nassau County.

21 MR. VALENTINO: Correct.

22 CHAIRWOMAN FORD: Thank you very much.

23 LEGISLATOR WINK: Thanks. Mr.

24 Valentino, you said you reviewed Civil

25 Legislation in New York City?

2 MR. VALENTINO: That's correct.

3 LEGISLATOR WINK: It was my
4 understanding, and I you can correct me if I'm
5 wrong here, but New York City actually makes the
6 filing of the income and expense statement a
7 prerequisite to filing a challenge; isn't that
8 the case?

9 MR. VALENTINO: They don't make it a
10 prerequisite. What happens is if you don't file
11 in New York City you can't appear before the tax
12 commission. But that does not preclude your
13 right to an RPTL Article 7 proceeding; they can't
14 take that away.

15 LEGISLATOR WINK: Okay. But they can
16 deny you an administrative reduction based upon
17 failure to provide.

18 MR. VALENTINO: Yeah. The equivalent
19 here would be that you could not appear before
20 ARC but you could still file your Article 7.

21 LEGISLATOR WINK: Okay. Okay. But
22 we've never done that and our legislation doesn't
23 authorize that, right?

24 MR. VALENTINO: That's the way I've
25 read the bill.

2 LEGISLATOR WINK: Okay. Perhaps we
3 should mirror the language of New York City with
4 respect to the ARC process so that it's an
5 additional requirement.

6 Of the 17,000 or so commercial
7 properties, how many of them file a challenge in
8 any given year?

9 MR. VALENTINO: I wouldn't know. You
10 would have to check those numbers with ARC. I
11 would imagine it's a significant percentage.

12 LEGISLATOR WINK: I would hazard a guess
13 to say it's anywhere from 85 percent or higher.

14 MR. VALENTINO: That's probably correct.

15 LEGISLATOR WINK: Which means that many
16 of the ones who aren't filing their income and
17 expense statements are in fact going through the
18 process of ARC without those statements.

19 MR. VALENTINO: I would assume that's
20 correct. Like I said, I don't have those
21 statistics on me.

22 LEGISLATOR WINK: It would seem to me
23 you might be able to get significant compliance
24 just from making that a prerequisite similar to
25 New York City. Just a thought. And our law

2 certainly would require that as well, you're
3 right.

4 By the way, just for the record, I ask
5 that all my assessment mail from this point
6 forward to forwarded to Legislator Denenberg's
7 office. This is not longer my headache. In
8 fact, I think come January I may find myself
9 filing a challenge for the first time in a
10 decade. But be that as it may.

11 I just want to thank you for taking the
12 time to review this. I'm glad to see that we're
13 starting to get serious about dealing with the
14 assessment issue. And I would hazard an opinion
15 that really the last four years have been kicking
16 the can down the road. I want to congratulate my
17 colleagues in the majority for recognizing the
18 fact that there were significant reforms that can
19 be enacted and that can bring about greater
20 compliance and a greater understanding of our
21 assessment system then what we've seen until now.
22 So I thank you very much for that.

23 CHAIRWOMAN FORD: Thank you, Legislator
24 Wink. Also, we have to comment as Ranking
25 Member, this is the last time on this committee.

2 It's like a sad day, that's all I can say. I'm
3 saying goodbye to a lot of friends.

4 LEGISLATOR WINK: I'll share a little
5 bit of that sadness. I can't say I share all of
6 it. But I want to thank you, Legislator Ford.
7 Thank you very much. From my first days in this
8 legislature almost seven years ago, I started off
9 as a member, became the chair and ranking member
10 for probably about six of the last almost seven
11 years. I have thoroughly enjoyed this committee.
12 I think this can be and should be one of the most
13 proactive and one of the most thoughtful
14 committees, in terms of oversight and seeking
15 real oversight of the administration. I would
16 also hasten to add that this is a committee that
17 can and should spend some time looking back a
18 little bit and seeing the things that we passed,
19 whether or not they've actually been implemented
20 properly, whether or not they're actually
21 overseen properly. This committee has real
22 opportunities to not only look back and make sure
23 that we're still living up to the legislation we
24 pushed, but we can look forward to this
25 committee.

2 I want to thank you very much for the
3 honor of having served on this committee for as
4 long as I have.

5 CHAIRWOMAN FORD: And we're happy that
6 you did. Legislator Wink, you are always well
7 spoken. And I have to say that I agree with you
8 on your comments, that I really think that this
9 is an important committee and I think that we
10 should heed the words that you said and hopefully
11 follow through on it.

12 LEGISLATOR WINK: Thank you very much.
13 Thank you.

14 CHAIRWOMAN FORD: Any other questions?

15 (No verbal response.)

16 Any questions from the audience?

17 (No verbal response.)

18 I'd like to move Item 556-13 on to
19 Finance -- to Rules.

20 Moved by Legislator Dunne, seconded by
21 Legislator Venditto.

22 LEGISLATOR DENENBERG: Before you call
23 the vote, I just want to note for the record that
24 when you do call the vote I'm inclined right now
25 not to oppose or to favor but to abstain,

2 depending on not just the hearing, but I'd really
3 like and ask the majority to consider putting the
4 onus also on the Department of -- the Assessment
5 Review Commission and on the Department of
6 Assessment to actually do something with this
7 information, similar to the Denenberg-Wink
8 legislation. And if all we are doing is putting
9 another onus on small business without making the
10 county more serious about reviewing these and
11 doing something with the income and loss
12 statement, then I'd be inclined not to favor.
13 And right now I don't know if we're calling or
14 what we're doing. So right now I would abstain.

15 CHAIRWOMAN FORD: We are going to call a
16 vote.

17 LEGISLATOR WINK: Thank you, Madame
18 Chair. I'll echo the latter comments of
19 Legislator Denenberg. We do need to, I think, to
20 recommit ARC and quite frankly, for that matter,
21 the Department of Assessment to this cause. I,
22 myself, will vote to tee it up today because I do
23 think it's worth having a public hearing on.

24 LEGISLATOR NICOLELLO: To the point that
25 it would create an onerous or some sort of burden

2 on these small business owners, one of the things
3 we would like to see in the report that's being
4 provided is which groups of property owners are,
5 in fact, providing the income and expense
6 statements. I think we suspect that small
7 business owners are doing it already and it's
8 just the larger entities that a \$500 fine means
9 nothing to them, that are probably not complying.
10 So if you can do a breakdown for us in your
11 report to indicate of the 60 percent that are
12 complying, how many of those are from the smaller
13 business owners, how many are from larger
14 business owners. We'll give you parameters you
15 can use but we'd like to see that information
16 also.

17 LEGISLATOR WINK: And to that end, if
18 may add. I would agree that if that is in fact
19 what is occurring here, then we do need to crack
20 down quite a bit.

21 I would also question -- I don't know if
22 there is a way to analyze this -- but to question
23 whether or not there is some cottage industry in
24 the county that uses the income and expense
25 statement advantageously and withholds it for

2 some advantage sought. To that end, I think that
3 would also require great scrutiny on the part of
4 the county, on how to combat that and address
5 that.

6 LEGISLATOR DENENBERG: To the Chair. I
7 had requested some of this, and I guess
8 Legislator Nicoletto wants even more specifics,
9 to Mr. Valentino, on who is complying, who is
10 not, your 60/40, whether those people get the
11 fines and we actually collected it; all of that,
12 if we could get that as soon as possible, before
13 that hearing, as opposed to five minutes the
14 hearing, I think it would be very, very useful.
15 I'd like to see more before I support this.

16 Thank you.

17 CHAIRWOMAN FORD: And if not all, as
18 much of the information requested, that would be
19 perfect.

20 Just also to reiterate that it has been
21 said publicly that we are not adverse to looking
22 into the Denenberg or is it the Wink-Denenberg
23 legislation. I'm going to give it to Wayne
24 today.

25 LEGISLATOR WINK: I know how it's

2 normally described. You can describe it as you
3 see fit.

4 CHAIRWOMAN FORD: Okay. Wink-Denenberg
5 legislation. We are looking at some elements of
6 that, so just to let you know that we haven't
7 shut the door on any of your proposals.

8 Now I'm going to call 556. All in favor
9 of passing this through?

10 (Aye.)

11 Any nays?

12 (No verbal response.)

13 And we have one abstention, Legislator
14 Denenberg. Two. I'm sorry.

15 I'm calling 557. All in favor say aye.

16 (Aye.)

17 Nays?

18 (No verbal response.)

19 Abstentions?

20 (Abstain.)

21 Two. We got it. Thank you.

22 I guess I'm going to close the hearing.

23 Moved by Legislator Dunne, seconded by
24 Legislator Venditto.

25 Thank you.

1 Government Services & Operations Committee - 12-9-13 50

2 (Whereupon, the Government Services &

3 Operations Committee adjourned at 3:06 p.m.)

C E R T I F I C A T E

I, FRANK GRAY, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby state:

THAT I attended at the time and place above mentioned and took stenographic record of the proceedings in the above-entitled matter;

THAT the foregoing transcript is a true and accurate transcript of the same and the whole thereof, according to the best of my ability and belief.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of December, 2013.

FRANK GRAY