

# NASSAU COUNTY ASSESSMENT REVIEW COMMISSION

## RULES OF PROCEDURE

### 1. Effective dates

- 1.1. These rules shall take effect after their approval by the Legislature on dates prescribed by the Commission.

### 2. Procedure for amendment of rules

- 2.1. Draft amendments to the rules may be distributed at any time. Proposed amendments shall be delivered to the Legislature for approval not less than 45 days after their date of distribution in draft form. Amendments may consist of one or more entirely new rules, replacements of existing rules or modifications of existing rules. All references herein to rules shall, unless the context requires otherwise, include amendments.
- 2.2. The Commission shall consider the proposal of rules at least once each year.
- 2.3. Any person may submit a proposed rule at anytime. Whenever the Commission distributes draft rules or considers proposed rules it shall consider all such proposals as were received since the last distribution.
- 2.4. The distribution of draft rules shall include the Condemnation Law and Tax Certiorari Committee of the Nassau County Bar Association and any other individual or organization that has requested such distribution by letter.
- 2.5. Any person may submit comments on draft rules. The Commission shall consider such comments in formulating its proposed rules. The Commission's submission to the Legislature shall include the full text of the comments and indicate the extent to which the rules were changed on the basis of the comment.
- 2.6. The Commission shall make its best efforts to accommodate a request for a meeting by any person or organization that has submitted proposed rules or comments for purposes of explaining such proposal or comments.

### 3. Procedure before the Commission

- 3.1. The sole procedure before the Commission shall be that for making an application for correction of an assessment as set forth in Real Property Tax Law § 523-b.
- 3.2. An application for correction may be made only by submitting an application form for review by the Commission during the period from the first business day in January until the first business day in March; provided, however, that if no application was filed in respect to the assessment that appeared on the April 2003 final assessment roll, an application filed between January 2, 2004, and March 1, 2004, shall be deemed to apply to the assessments that will appear on both the April 2004 and April 2005 roll

and, in such case, the statement of grounds and claimed value shall be deemed to apply to both assessments unless the application states otherwise.

- 3.3. Notwithstanding the foregoing, where Title 3 of Article 5 of the Real Property Tax Law or other law respecting the correction of clerical errors refers to action by the Board of Assessment Review, such reference may apply to the Commission if the context makes such interpretation appropriate.
- 3.4. Procedures for grievance days or hearings before assessors do not apply to the Commission.
- 3.5. The Commission shall act throughout the year.
- 3.6. The purpose of the proceeding before the Commission is to provide a forum for presentation of claims and their resolution in a speedy and inexpensive manner. The formal rules of evidence and other practices of courts and administrative tribunals in adversary proceedings shall not apply in proceedings before the Commission except to the extent specifically made applicable by law or these rules.
- 3.7. Nothing in these rules shall be construed or applied in a manner that is inconsistent with the provisions of Real Property Tax Law § 523-b or other applicable law.

#### **4. Forms**

- 4.1. Applications shall be made only on the current version of one of the primary application forms prescribed by the Commission: AR 1, AR 2, AR 3, except that:
  - 4.1.1. In 2003, application may be made on the complaint form prescribed by the New York State Office of Real Property Services (RP-524).
  - 4.1.2. In any year when a new version of a form is not available by October 4 in the year prior to the filing, the version of the form prescribed for the prior year may be used without occurring any disadvantage or requirement to refile on the more current version.
- 4.2. When an application is duly filed but it is apparent that the form used is not the correct Nassau County form for such application, or is an obsolete version of the form or (except in 2003) is a complaint form issued by the State Office of Real Property Services, the application is defective and the Commission shall either allow for its cure as provided by law or may waive the defect as harmless as provided by these rules.
- 4.3. Where the Commission prescribes a form for supplemental attachments or submissions, the use of the current version of such form shall be required to the same extent and under the same conditions as the primary application forms unless the instructions for the form designate it as an optional form.
- 4.4. The instructions issued by the Commission are part of the forms to which they pertain.

- 4.5. Forms prescribed by the Commission may include forms printed on paper or made available electronically for printing and electronic templates for submission by electronic means, including but not limited to e-mail attachments and web forms. All required forms shall be made available in printed form. These rules shall apply identically to all types of forms, except as otherwise provided or where the context clearly so requires.
- 4.6. Samples of the application forms prescribed by the Commission may be annexed to these rules for ease of reference but the forms and their instructions shall not constitute rules.
- 4.7. At least 30 days prior to submitting application forms for approval by the New York State Office of Real Property Services, the Commission shall distribute draft forms to the same organizations and individuals to whom draft rules are distributed. The Commission shall accept and consider written comments and make its best efforts to accommodate requests for meetings with interested groups who wish to present and discuss comments in person.
- 4.8. The Commission may permit representatives or other persons who regularly submit applications for consideration by the Commission to produce their own private editions of the application forms prescribed by the Commission.
  - 4.8.1. Such approval shall be deemed granted for forms filed in 2003 provided that the content of the form is substantially the same as that of the form prescribed by the Commission or RP-524.
  - 4.8.2. Starting with the filing period in 2004, such private editions shall be used only if they have been approved by the Commission in advance but such approval shall be freely granted if their use results in no prejudice to the operations of the Commission. The Commission shall notify the submitter of any objections to a proposed private edition by October 4 or within 30 days of submission, whichever is later, and, if notice is not given within such time, any objections by the Commission shall be deemed waived for purposes of the next following application filing period.
  - 4.8.3. Except when the context requires otherwise, a reference in these rules refer to an official New York State or Nassau County form shall include an authorized private edition and may as appropriate also include an unauthorized private edition that is substantially similar to the official form. The use of an unauthorized private edition shall be a curable defect.
- 4.9. An application made by an attorney or other representative shall be accompanied by a written authorization signed by the applicant. An authorization shall be valid for only one tentative assessment roll and shall be signed and dated no more the one hundred-twenty days before the first date for filing of applications for correction of assessments appearing on such roll.

- 4.10. The Commission may issue identifying numbers to representatives and other repeat filers. Persons who have been given notice of the assignment of an identifying number shall write the number on every application form in place of or in addition to a mailing address and shall notify the Commission promptly when they change their mailing address or telephone number. An identifying number issued by the Commission shall be used to speed data capture and for sorting and retrieval of applications. It shall have no other purpose and shall not confer any special benefits on the recipient. Its issuance and use shall be solely within the control of the Commission and other County departments that share its use.

## **5. Location for filing**

- 5.1. The current location for filing of applications is the office of the Department of Assessment on the 2nd floor of 240 Old Country Road, Mineola, NY 11501. Upon transfer of the function of accepting applications to the Commission in 2004 or upon any change in the location, the Commission shall publish the new location on the County web site and by distribution to the persons to whom proposed rules are mailed.
- 5.2. The Commission may arrange with bulk filers for delivery of applications forms to an alternative location.
- 5.3. Timely submission of the application to another office of the County shall not render it untimely or defective if such delivery was made in good faith and the form is forwarded to the proper office or a copy is supplied to the Commission with proof of timely submission.

## **6. Assessments and economic units**

- 6.1. An application shall relate to the assessment of a single parcel or of the assessments of parcels constituting an economic unit.
- 6.2. An assessment shall constitute the entries on a tentative county assessment roll of the assessed valuation, taxable assessed valuations for the several tax districts in which the property is situated, class designation and tax district designations.
- 6.3. Where application is made for parcels that are part of an economic unit only one application shall be made for the group as whole unless the applications are based on different grounds or other good cause is shown.
- 6.4. An economic unit is:
  - 6.4.1. A contiguous group of parcels under common ownership.
  - 6.4.2. A group of condominium units under common ownership in the same condominium.
  - 6.4.3. A group of units in a condominium for which application is made by or on behalf of the board of managers.

6.4.4. A group of parcels owned by the same cooperative apartment corporation.

6.4.5. A group of parcels under common control that are used as if they were one property and which are separated by no more than one public street.

6.5. Examples:

6.5.1. A commercial building and lots used for parking for the building's occupants, visitors and customers.

6.5.2. A group of buildings and lots on two adjacent blocks, with frontage on several streets, that is used by a car dealership for its showrooms, offices, repair and storage facilities, and parking.

6.5.3. A group of apartment buildings on the same block with a common maintenance work force.

6.5.4. A private residence and an adjacent parcel used as a yard.

## **7. Applicants**

7.1. The applicant shall be a person aggrieved by the assessment as such term is defined by law and precedent.

7.2. Only an owner or contract vendee shall be the applicant for applications made on form AR 1.

7.3. Wherever in these rules or in the instructions for a form the applicant is authorized or directed to take any action, an entity agent or qualified fiduciary, as such terms are defined in these rules, may take such action as if he or she were the applicant.

7.4. A qualified fiduciary shall include (a) an executor or administrator of the estate of the owner's predecessor in title, (b) a person acting under a verified power of attorney that grants general authority to manage the property or the owner's financial affairs, or (c) a court-appointed receiver, trustee or guardian acting consistently with the powers granted by the court.

7.5. An entity agent is a person authorized to act on behalf of a business entity. The following individuals shall be presumed to have authority to act for an entity:

7.5.1. An officer of a corporation.

7.5.2. A partner of a general partnership.

7.5.3. A general partner of a limited partnership.

7.5.4. A manager or member of a limited liability company.

7.5.5. A trustee of a trust or an estate in bankruptcy.

7.5.6. Where any of these positions is held by a corporation, an officer of such corporation.

7.5.7. The president or treasurer of an unincorporated condominium association.

7.5.8. A public officer of a municipal corporation or governmental body.

7.5.9. The foregoing list is not exclusive. A person having power of attorney is not an entity agent but may be a qualified fiduciary.

## **8. Certification by applicant or authorized representative**

8.1. Application forms shall be certified by the applicant or an authorized representative. A person shall be an authorized representative for this purpose if he or she or such person's firm has obtained the applicant's written authorization for the filing of the application.

8.2. The Commission may, consistent with Real Property Tax Law § 523-b, prescribe the form of the certification for the various application forms and may determine whether a manual signature shall be a necessary part of the certification.

## **9. Duplicate applications**

9.1. Each applicant shall bring only one application in respect to an assessment.

9.2. Multiple applications by the same applicant for the same assessment shall be deemed merged.

9.3. However, the Commission shall take no action on an assessment if there are duplicate filings for the current assessment year by different applicants or different representatives.

9.4. If more than one applicant or representative files in respect to an assessment the Commission shall notify each applicant in writing of the existence of the duplicate filings and request that all but one withdraw.

9.5. If more than one application remains after the time specified in the notice, which shall be not less than 35 days, the Commission may deny both applications or may make further efforts to resolve the duplication, including a conference or an examination of the applicant or representatives.

## **10. Grounds for relief**

10.1. A valuation claim is a claim of unequal assessment or a claim that the assessment is excessive because it exceeds the full value of the property.

10.2. A residential application is one made by or on behalf of the owner of a one, two or three family structure, which is used exclusively for residential purposes. For this

purpose a one family structure shall include a structure or part of structure that consists of a single condominium unit, or a group of units that have been physically merged, which is used as the residence of one family and which constitutes class 1 property pursuant to Real Property Tax Law section 1802.

- 10.3. A commercial application is any application that is not a residential application.
- 10.4. Only one primary application form shall be used for each property.
- 10.5. The Commission shall review claims based on grounds other than valuation if application is made on form AR 3. Applications made on form AR 3 must include a non-valuation claim but may also include a valuation claim.
- 10.6. All other residential applications shall be submitted on form AR 1.
- 10.7. All other commercial applications shall be submitted on form AR 2.
- 10.8. Applications on form AR 1 or AR 2 must include a valuation claim.
- 10.9. For purposes of preserving the right for review of claims on grounds other than valuation, the filing of an application on forms AR 1 or AR 2 shall be deemed to include any claims that may be made in an application on form AR 3.
- 10.10. The Commission may publish one or more sample completed application forms, which may consist of samples submitted to it by any organization or individual or samples prepared by the Commission. At an applicant's option at any time, an application filed on form AR 1, AR 2 or AR 3 may be deemed to include a statement of grounds contained in any such sample application form. The publication of sample forms shall not constitute acceptance by the Commission of its jurisdiction over the claims set forth in the sample form or of the accuracy of the claims.
- 10.11. The foregoing provisions shall not restrict applicants right to file on form RP-524 in 2003 or to use other alternative applications forms as set forth in these rules.
- 10.12. A valuation claim must include a claimed full market. The applicant may not rely on the valuation made by the assessors or any other determination by the assessors, and the applicant's burden of proof shall not be diminished where the application states a full market value that is equal to or less than that set by the assessors.
- 10.13. A duly completed application on form AR 1, AR 2 or AR 3 shall be deemed to meet the requirements for a claim of unequal assessment (or excessive assessment on valuation grounds) in the manner required by law if it states a claimed full market value. The failure of the form to request or for the applicant to supply the tentative assessment or requested assessment shall not prejudice the applicant's claim in any way as the Commission may ascertain these figures from public records or calculate them without exercise of any judgment on its part.

- 10.14. The claim of unequal assessment shall be deemed to set forth a claimed level of assessment that is the lesser of the level stated by the Board of Assessors or by the Assessment Review Commission or that stated in the application or the final Class Ratio promulgated by the State Board of Real Property Services. In each case such level of assessment shall be that for the tax class of the subject property and for the year of the assessment under review. This rule and any similar statement in an application form or instruction shall not constitute a determination or admission by the Commission as to the appropriate level of assessment for any given tax class and roll year.
- 10.15. The filing of form AR 1 for a property that is designated as a class 2 or class 4 property on the roll shall constitute a claim that the property is misclassified.
- 10.16. A failure to state a claim in the application as originally filed may be cured by amendment of the application in the manner provided by these rules.

## **11. Amended applications; substitutions of applicants and representatives**

- 11.1. An applicant may submit an amended application at any time prior to March 1 of the year following the year in which it was filed.
- 11.2. Amendments may include adding to or modifying the grounds for relief, correction of the claimed full value, substitution of applicants, substitution of representatives and correction of erroneous or incomplete statements of fact or may address issues relating to a tentative assessment that is increased or reclassified after its initial publication in January.
- 11.3. Amendments may be made at a conference or by letter or on a form provided for such purpose by the Commission. An applicant shall not submit a new or revised primary application form unless requested to do so by the Commission.
- 11.4. A representative submitting an amendment substituting a new applicant shall submit an authorization by such applicant.
- 11.5. Substitutions of representatives shall be made on notice to the outgoing representative.
- 11.6. Substitution of representatives shall be permitted where the outgoing representative consents to the substitution or has no reasonable basis for refusing to consent.
- 11.7. The procedures set forth here for amendments and substitution of applicants or representatives shall apply only to applications for correction of assessments pending before the Commission. Where there are pending proceedings for prior years' assessments, amendments and substitutions shall be made as provided by law and court rules.



## **12. Invalid applications**

- 12.1. An application is invalid if it is untimely, made by a representative who is unable to provide proof of authority to make the application after notice and an opportunity to cure the failure to submit such proof of authorization in the manner provided by Rule 13.5, not made on a Nassau County or New York State application form or a form substantially similar thereto, wholly illegible or blank, or so incomplete that the subject property cannot be ascertained even by reference to a search of names or addresses on the assessment roll.
- 12.2. Any other omission from an application of a signature, date, claimed value, or any other entry of information, attachment or exhibit required by law, these rules, the form or its instructions shall at most constitute a curable defect and shall not render the application invalid.
- 12.3. The sending of any notice, assignment of a reviewer or any other action by the Commission shall not give the Commission jurisdiction over an invalid application or be deemed a waiver of the County's objections to the application's validity.

## **13. Defective applications**

- 13.1. Incomplete or otherwise defective applications may be cured in the manner provided by law.
- 13.2. The Commission may waive any defect of form that it deems harmless in the particular case but such waiver shall be limited in its operation to the particular application for a particular review period. A waiver of a defect shall not prevent the Commission from requesting any relevant information as part of its review of the application, prevent the County from asserting any defense in litigation or prevent the Commission from requiring a similar defect to be cured in any other case or review period.
- 13.3. An applicant may respond to the factual questions in the application form by stating that all requested information will be provided in response to the Commission's request.
- 13.4. Whenever an applicant responds to a question in an application form by stating that he or she lacks knowledge of the answer, such response shall be considered compliant pending further inquiry into the circumstances of applicant's inability to answer in detail. For purposes of this rule, lack of knowledge means the inability of the applicant to answer the question from its personal knowledge or that of its employees or agents or from its existing books and records.
- 13.5. Any notice affording an opportunity to cure a defect shall specify the defect, the manner in which it is to be cured and the time within which it may be cured, which shall not be less than 35 days from the mailing of the notice to the applicant.

#### **14. Communications with representatives**

- 14.1. Communications by the Commission shall be made to the applicant's attorney where the applicant is represented by counsel or where there are pending proceedings in respect to prior assessment years.
- 14.2. Where an applicant is represented by a person who is not a lawyer the Commission may direct all communication to the representative.
- 14.3. The Commission shall not communicate with a representative who is not a lawyer with respect to a proceeding for a prior year unless such proceeding is a Small Claims Assessment Review Proceeding.

#### **15. Information required to support a claim for reduction**

- 15.1. The Commission shall not reduce an assessment unless the applicant substantially complies with the applicable standard request for information for valuation claims, as defined in these rules, and any specific request or shows good cause why such information cannot be obtained or should not be required. Such required information shall relate only to the subject property, which shall include all of the lots constituting an economic unit as such term is defined in these rules.
- 15.2. The submission of information about comparable properties shall not be required. The submission of appraisal reports shall not be required except final reports previously exchanged in assessment review proceedings relating to the subject property.
- 15.3. The restrictions in this rule on the type of information that shall be required shall not imply that such information may not be submitted voluntarily in satisfaction of applicant's burden of proof.
- 15.4. Applicants may provide information responsive to the standard request in the application form as originally filed.
- 15.5. If the information responsive to the standard request is not provided in the application as originally filed it shall be provided in response to a notice from the Commission scheduling dates for submission. The first such date shall be not less than 35 days after the date of the notice.
- 15.6. Where information is submitted after the initial application, answers to the factual questions in the application form may be supplied as part of that later submission.
- 15.7. The Commission may make a specific request in addition to its standard request or where such request is inapplicable. Specific requests shall be made in writing and the Commission shall endeavor whenever possible to make only a single specific request for each application. Applicants shall provide information in response to specific requests by the date specified in the request, which shall not be less than 35 days from the date of the notice.

- 15.8. If the applicant requires additional time to respond to a standard or specific request, the applicant shall make a written request for extension of the time, which shall not be unreasonably denied.
- 15.9. If an applicant or representative fails to provide required information within the time permitted, the Commission may deny the application or may compel the applicant to appear and be examined as provided by Real Property Tax Law § 523-b.
- 15.10. The type of information required may vary according to the type of application and use of the property.
- 15.11. The quantity and quality of information requested by the Commission shall be reasonable in relation to the types of records ordinarily maintained by prudent property owners of the type of property under review.
- 15.12. The Commission shall request information for evaluation of the claims in an application based on its reasonably expected need for such information in making a determination and not solely for the purpose of precluding judicial review. The timing of such requests shall be reasonably related to the time during which the Commission expects to consider the application.
- 15.13. The information requested shall be relevant to the determination of the subject property's market value or other issues to be determined by the Commission, including procedural issues. However, neither a request for information by the Commission nor submission of information by the applicant shall constitute an admission that the information would be admissible or deemed relevant in a proceeding under Article 7 of the Real Property Tax Law.
- 15.14. The Commission shall permit and encourage submission of information in electronic form provided that it is submitted in a form for which the Commission has the requisite hardware and software. On request it shall provide specifications for the types of media and software that will be accepted.
- 15.15. Where a request for information refers to the period under review it shall not include years for which no reduction is sought except where a request specifies that the information must include such year although no reduction is sought or must include information for a minimum number of years. A statement that no reduction is sought for a year shall satisfy the request for information in respect to that year if neither exception applies.
- 15.16. Where this Rule 15 or Rule 16 refers to the owner or owner-occupied property, the reference shall include a lessee of the property where the lessee is the applicant.
- 15.17. All information reported to the Commission shall separately identify transactions between related individuals or entities.

## **16. Standard request for valuation claims**

- 16.1. Applicants shall provide the information responsive to the Commission's standard requests, which are described in this Rule 16, in the manner provided in Rule 15.
- 16.2. The standard request for a residential property shall be the answers to the questions in part C of form AR 1, except such questions as are designated as optional and, if the house was in the course of construction during the years under review or during the prior two years, a copy of the permit application or certificate of occupancy and an itemized account of the costs of construction.
- 16.3. The standard request for commercial property shall be the answers to questions in part C of form AR 2, except such questions as are designated as optional, and the following:
  - 16.4. For a nonresidential, improved property, a rent roll for each year under review, as of the January 1 of each such year, listing all space in the building that is used or that is suitable for use by tenants, including vacant and owner-occupied space.
    - 16.4.1. Such rent roll shall include the floor area of each space and a general description of the use of the space, including an indication of whether it is owner-occupied, vacant or rented, the name of the tenant, and the annual or monthly rent.
    - 16.4.2. The rent roll shall also list tenancies and licenses for which rent is received that do not occupy building space, such as open space or use of a roof.
- 16.5. For rental apartments, a rent roll as of the January 1 for the last year under review.
- 16.6. If the property is rent-producing, an itemized statement of income and expenses for each year under review, but not less than two years in total. The most recent such year shall be the calendar year or the applicant's fiscal year ending five or more months before the date of the submission.
  - 16.6.1. Income shall include any income from tenants, licensees or other users of the property, including such income accrued or paid to entities related to the applicant.
  - 16.6.2. Income shall include amounts accrued or paid on account of utilities or services provided to users of the property, advertising signs, antennae, parking or storage and government subsidies or other payments made by a third party on behalf of an occupant of the property.
- 16.7. For cooperative and condominium apartments, the annual financial statement for each year under review, other than the current year, and the last amendment of the offering plan if issued within the years under review.
- 16.8. If the property is used by its owner for operation of a hotel, assisted living facility, adult home, health related facility or skilled nursing home, an operating statement for each year under review but not less than two in total.

- 16.9. For properties that have leased commercial space, abstracts of the leases with initial terms of one year or more that are currently in effect or that were in effect during the period under review. Abstracts shall not be required for leases that are described in the rent roll as having an annual rent of less than \$25,000. Copies of the leases, including amendments, may be provided where no abstract exists. Abstracts shall include the principal information from the clauses of the lease specifying the demised premises, permitted uses, term, rent and additional rent, shared expenses, services provided by the landlord, construction required by the tenant and options for renewal, extension or purchase.
- 16.10. If the property is under contract of sale, or has sold during the years under review or the prior two years, a copy of the contract of sale and the closing statement, if one has been prepared.
- 16.11. If a new lease of the entire property has entered into during the years under review or during the prior two years, an abstract or copy of the lease.
- 16.12. If the building was in the course of construction, reconstruction or expansion during the years under review or during the prior two years, a copy of the permit application or certificate of occupancy and an itemized account of the costs of construction, including financing and other soft costs.
- 16.13. If there is a plan for amelioration of environmental contamination of the property or for correction of structural defects or code violations in the building, a copy of such plan.
- 16.14. The Commission may require submission of information in a specific request that is excepted from inclusion in its standard request, such as, for example, leases having an annual rent of less than \$25,000.
- 16.15. Nothing in this rule shall require the submission of rent rolls or lease data as of a date less than three months prior to the date of submission or to require accounting statements for a period ending less than five months prior to the date of submission.

## **17. Examinations**

- 17.1. A request to appear for examination shall be made in writing and shall, where issued due to a failure to adequately respond to a request for information, specify the information that is required to satisfy the request. The date for the examination shall not be less than 35 days from the date of the notice unless the applicant consents to an earlier date. Requests for adjournment shall be granted for good cause shown.
- 17.2. The foregoing shall not limit the Commission's authority pursuant to law to require an applicant to appear for examination for purposes other than a failure to respond to a request for information.
- 17.3. Where the applicant failed to adequately respond to a request for information and has therefore been required to appear for examination, the applicant may file a written

agreement to respond by a date acceptable to the Commission or withdraw its application. The filing of such an agreement shall substitute for the requirement to appear for examination.

## **18. Consideration by the Commission**

- 18.1. The Commission shall make every effort to consider every valid application submitted to it for review within the time period prescribed by law.
- 18.2. Every application shall be determined on the merits unless it is defective and has not been cured or unless the applicant has refused without good cause to appear and be examined when requested to do so by the Commission.
- 18.3. An application shall be deemed pending before the Commission and subject to administrative action by the Commission from the time that it is filed until March 10 in the year following the year in which it is filed. The filing of a petition for judicial review by the applicant or another person or the issuance of a notice of determination by the Commission shall not impair the Commission's authority to act on the application, except that the filing of a Small Claims Assessment Review Petition shall restrict the Commission to those grounds and actions that are permitted in Small Claims proceedings.
- 18.4. The Chairperson shall designate a commissioner or employee as the reviewer for each valid application that has been presented to the Commission.
- 18.5. Any applicant or representative who has filed a complete application and complied with the Commission's request for information or explained his or her inability to do so, may request a conference with the Commission to present arguments or oral testimony in support of the application. The Commission shall endeavor to grant all such requests to the extent it is able to do so. Conferences may be conducted by telephone if the Commission and the applicant so agree. Conferences may be conducted by the reviewer assigned or other commissioner or employee assigned by the Chairperson. The Commission shall maintain a record of the attendance at conferences and the substance of the arguments and information presented.
- 18.6. Applicants and their representatives shall not discuss the merits of an application with any member or employee of the Commission except during a conference. All written comments, including e-mail, shall be addressed to the Commission and not to an individual commissioner or employee.
- 18.7. The Commission may consider any application en banc. In every other case, the determination shall be based on the recommendation of the reviewer assigned subject to such further reviews and approvals as are required by these rules and as may be deemed appropriate by the Commission in a particular case.
- 18.8. No commissioner or employee of the Commission shall take any action in respect to the review of an application except as part of a review en banc or as directed by the Chairperson or by his or her designee.

- 18.9. The person assigned to review or provide quality control review of an application shall recuse him or herself if the applicant or representative is a related individual or entity or if his or her involvement in the review would otherwise constitute a conflict of interest.
- 18.10. Any action by a reviewer shall be subject to the approval of the Commission and the Chairperson. Every action by a reviewer shall be submitted for potential selection for a quality control review by a commissioner designated by the Chairperson. At least 5% of all reductions and every reduction of an assessment that had a tentative valuation equivalent to a full value of \$1,000,000 or more shall be so reviewed.
- 18.11. Every reduction of an assessment that had a tentative valuation equivalent to a full value of \$20,000,000 or more shall be approved by no fewer than a majority of the full-time members of the Commission, provided in the event that one or more of such full-time members are unavailable, the Chairperson at his or her discretion shall designate one or more part-time members of the Commission in their places.
- 18.12. The reviewer assigned to an application shall prepare a written report for each matter reviewed on the merits setting forth his or her recommendation and the facts, figures and calculations on which it is based, including the estimated market value, the method of valuation used and comparable properties used, if any.
- 18.13. Any comments and changes recommended by a quality control reviewer or by the Commission en banc, the Chairperson or Vice Chairperson, shall be annotated on the report of the reviewer.
- 18.14. All proposed reductions shall be made available to the Department of Assessment at the same time that they are conveyed to the applicant. The Commission shall consider any information supplied to it by the Department of Assessment and shall share any relevant information received by it with the Department of Assessment.

## **19. Determinations**

- 19.1. The Commission may determine the transitional assessed value and taxable assessed value. However, in determining a valuation claim it may determine only the total assessed value, in which case the calculation of the transitional assessed value and taxable assessed value shall be delegated to the Department of Assessment.
- 19.2. The determination of the Commission shall consist of the corrected value and an error in the stated original assessment or amount of reduction shall not affect the determination.
- 19.3. Unless otherwise stated by the Commission, the determination of an aggregate corrected value for an economic unit shall be allocated among the tax lots in proportion to their tentative assessments. Similarly, the allocation between land

and total value shall be in proportion to the tentative values unless the Commission states otherwise.

- 19.4. The Commission may make any determination in the form of an offer, which shall be implemented only if accepted by the applicant. Where it does so, the Commission may specify the terms of the acceptance and may require that all pending proceedings by the same applicant and duplicate proceedings for the years under review be resolved by the terms of the agreement.
- 19.5. In order to effectuate an agreement resolving prior-year proceedings, the Commission may enter into stipulations through its counsel, who shall be a commissioner, employee or other person designated by the Chairperson and the County Attorney.
- 19.6. All proposed reductions shall be made in writing, shall be subject to final approval by the Commission and shall not be binding on the Commission until so approved. The Commission shall notify the applicant when an accepted offer is approved or disapproved within 35 days of acceptance. If no notice of disapproval is sent within such 35 days, the accepted offer shall be deemed approved.
- 19.7. No notice by the Commission shall be deemed a final notice for purposes of the 30-day period for commencement of judicial proceeding unless the notice contains the statement that it is a final notice.
- 19.8. An application that is voluntarily withdrawn or appropriately dismissed as invalid shall not support a proceeding for judicial review of the assessment that was the subject of the application even if such proceeding is commenced prior to the withdrawal or dismissal.
- 19.9. An application that is appropriately dismissed for willful refusal to appear for examination during the period described in Rule 18.3 shall not support a proceeding for judicial review of the assessment that was the subject of the application even if such proceeding is commenced prior to the dismissal.
- 19.10. If a proposed offer is not approved by the Commission, the applicant shall be restored to its status before the offer; any stipulations submitted pursuant to the agreement shall be void and notice of the Commission's rejection of the offer shall constitute the commencement of applicant's 30-day period for commencement of a judicial proceeding.

## **20. Records of the Commission**

- 20.1. The Commission shall maintain a record of its receipt and disposition of every application. The record shall include the name of every commissioner or employee who was assigned or took any action in respect to the application, and the date of such action, the record of every conference, including telephone conferences, all correspondence received in respect to the application, the report of the reviewer assigned with annotation of any comments or changes to its recommendation, and



any communication from the Department of Assessment in respect to the application.

- 20.2. The record of the Commission's proceedings on any application shall be preserved for no less than three years.

Adopted by resolution of the Assessment Review Commission on September 29, 2003

Approved by the Nassau County Legislature, by Resolution 365-2003, on December 8, 2003

Made effective January 1, 2004, by resolution of the Assessment Review Commission on December 10, 2003.