

## CHAPTER 3 APPLICATION

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#### **§3-01 Forms.**

(a) The Tax Commission shall prescribe forms for applications, supplemental applications, income and expense schedules, amendment of applications, supplements to applications, certifications by accountants, and submission of supplemental information.

(b) Applications shall be filed on the forms prescribed for such purpose.

(c) Applicants shall use forms for the current year and for the type of property at issue.

(d) The Tax Commission shall publish instructions on the use and completion of forms.

(e) Facsimiles of forms that are printed by representatives and self-represented applicants shall conform exactly in text and format to the forms prescribed by the Tax Commission, except for insubstantial deviations which Counsel authorizes in writing. A nonconforming facsimile shall be denied review unless the Tax Commission permits any defect(s) that are procedural and not jurisdictional to be cured before the scheduled review of the application.

(f) The Tax Commission may modify forms and the content thereof and may prescribe new forms as deemed necessary or appropriate.

#### **§3-02 Jurisdictional Requirements for Applications.**

##### *(a) Jurisdiction.*

(1) An application that lacks one or more jurisdictional requirements set forth in subdivisions (b) through (m) of this section shall be dismissed.

(2) An application dismissed for lack of jurisdiction is void.

(3) The Tax Commission may review applications for jurisdictional defects on its own initiative.

(4) Jurisdiction is determined on the facts existing when an application is filed, except when an application is rendered moot by subsequent action of the Department of Finance.

(5) Jurisdictional defects are incurable after the time for filing has expired.

##### *(b) Standing.*

(1) An applicant shall be a person aggrieved by an assessment when the application is filed.

(2) Persons aggrieved include:

(i) a legal owner of an entire tax lot;

(ii) a lessee of an entire tax lot with authority to protest the assessment;

(iii) a condominium board of managers;

(iv) a partial tenant or other lessee whose lease grants authority to protest the assessment;

(v) a contract vendee bound by a contract to purchase the property when the application is filed;

(vi) a mortgagee in possession;

(vii) a receiver appointed by a court;

(viii) the owner of a divided interest in the property; or

(ix) any other person who demonstrates that he, she or it is aggrieved by the assessment.

(3) A condominium board of managers may file a single application for all unit owners who have authorized the board to act for them.

(4) An attorney or other agent for the aggrieved person may not be the applicant.

(5) An applicant shall file proof of standing in accordance with instructions published by the Tax Commission.

(6) For the purposes of this paragraph, "person" shall include any natural person or entity that is capable of holding an interest in real property.

(c) *Time and location for filing an application.*

(1) An application shall be timely filed.

(2) An application is filed when it has been received by the Tax Commission. A mailed application that is properly addressed to the Tax Commission's Office shall be deemed to have been received on the day it is received by the City agency responsible for receiving mail sent to the Tax Commission.

(3) An application may be filed in person at the Tax Commission's Office or at any office of the Department of Finance in the Bronx, Brooklyn, Queens and Staten Island that is designated for such purpose by that Department.

(4) An application may be filed by mail to the Tax Commission's Office.

(5) An application for property designated on the assessment roll only by identification number shall be filed at the Tax Commission's Office.

(6) An application for a tax class one property shall be filed between January 15 and March 15 inclusive. Such applications must be received by the Tax Commission no later than 5:00 P.M. on March 15.

(7) An application for a tax class two, three, or four property shall be filed between January 15 and March 1 inclusive. Such applications must be received by the Tax Commission no later than 5:00 P.M. on March 1.

(8) When March 1 and 15 fall on a Saturday or Sunday, applications are timely if received by the Tax Commission by the following Monday no later than 5:00 P.M.

(9) Acknowledgment in writing, with the time and date, of receipt by the Tax Commission at the Tax Commission's Office or at any borough office of the Department of Finance designated to receive applications is the only proof of timely filing recognized by the Tax Commission.

(10) An application may not be filed by fax or email or other method not permitted by this section.

(d) *Genuine dispute.*

(1) An application is moot if the claim or claims within the jurisdiction of the Tax Commission can be satisfied without changing the assessment.

(2) An application is moot if it states a claim or claims of error that the Department of Finance corrects before the Tax Commission determines the application.

(e) An application shall state one or more of the four statutory claims of error in the assessment. The four statutory claims are that the assessment is excessive, unequal or unlawful, or that the property is misclassified.

(f) An application shall identify the property whose assessment is protested by either its borough, block and lot or its street address.

(g) *An application shall be signed by an authorized person.*

(1) An application shall be signed by the applicant, the applicant's fiduciary, a condominium board of managers, or an authorized agent.

(2) A general partner may sign an application of a partnership.

(3) An officer may sign an application of a corporation.

(4) A member or manager may sign an application of a limited liability company.

(5) A fiduciary who signs an application shall attach documentation of authority.

(h) *An application shall be verified or certified upon personal knowledge.*

(1) An application for a tax class two, three, or four property shall be verified by the applicant, the applicant's fiduciary, a condominium board of managers, or an authorized agent.

(2) A person who signs an application for a tax class two, three, or four property shall appear and acknowledge his or her signature before a notary public or other person authorized to administer oaths.

(3) An application for a tax class one property shall be certified.

(4) A person who signs an application shall have personal knowledge of the facts about the property that are required by the application form; provided, however, that a person who signs an application on behalf an entity or a person under a disability in accordance with applicable law shall have knowledge of the facts about the property that are required by the application form based on documents and other reliable information relating to the property.

(i) *The Tax Commission shall have subject matter jurisdiction.*

(1) The claims within the jurisdiction of the Tax Commission are that the assessment is excessive, unequal, or unlawful or that the property is misclassified, as defined in Charter §163 and §164-b.

(2) An application shall state a claim or claims within the jurisdiction of the Tax Commission.

(3) An application claiming exemption in full or part shall be preceded by a valid application for an exemption timely filed with the Department of Finance.

(j) A copy of a duly executed power of attorney shall accompany an application signed by an authorized agent. The power of attorney shall be signed by the applicant, duly authorized officer of a corporate applicant, duly authorized member or manager of a limited liability company, duly authorized partner of a partnership, or fiduciary.

(k) *An agent signing shall have personal knowledge.*

(1) Authorized agents, including without limitation attorneys, employees, and property managers, shall have personal knowledge of facts about the property stated in the application.

(2) Personal knowledge shall be stated in the form prescribed for that purpose and shall accompany the application.

(3) For purposes of this subsection, review by an agent of an applicant's books and records alone shall not provide sufficient basis to attain personal knowledge.

(l) An application shall state the name of the applicant.

(m) An application shall be filed with an original signature of the applicant, the applicant's fiduciary, a condominium board of managers, or an authorized agent.

### **§3-03 Procedural Requirements to Obtain Review of Applications.**

(a) An applicant shall use forms prescribed for the current year when applying to the Tax Commission for review of a tentative assessment.

(b) An applicant shall file the form that is appropriate for the claims made or the tax class of the property.

(c) An application, when filed, shall be complete and correct, with all applicable items answered and all applicable forms attached.

(d) An application shall be legible.

(e) An application shall be typed, written or printed in ink.

(f) A separate application shall be filed for each separately assessed property that is not a condominium unit.

(g) A condominium board of managers may file a single application for all unit owners who have authorized the board to act for them.

(h) An applicant shall not file more than one application for review of the same assessment.

(i) Applications for full or partial exemption or for reclassification shall require interior and exterior inspection of the property by a City employee.

(1) When contacted by the City, the representative and self-represented applicant shall promptly set an appointment to conduct an inspection.

(2) The representative or self-represented applicant shall notify the Tax Commission by telephone or fax, email or other writing received on or before April 10 if an appointment to conduct an inspection has not been set. When April 10 falls on a Saturday or Sunday, such notification shall be timely if made by 5:00 P.M. the following Monday.

(j) As required by Tax Commission instructions, copies of property records shall be attached to a required application when filed or submitted at the time of the scheduled review. Such records may include, but shall not be limited to, a commercial lease schedule, rent registration information filed with the New York State Department of Housing and Community Renewal, rent rolls maintained in the ordinary course of business, leases or abstracts of leases, income and expense schedules of the property maintained in the ordinary course of business, and applications for tax exemption or abatement.

(k) Applications signed by an agent, which Charter §163 requires to be accompanied by a power of attorney, shall also be accompanied by the prescribed form showing personal knowledge of the person signing the application.

(l) In order to obtain review, an applicant shall maintain standing as a person aggrieved until the hearing is conducted.

(m) Claims in an application shall be made in good faith.

(n) Claims shall be based on facts and circumstances pertaining to the property and may be based on prior year analysis and comparable year-to-year results.

(o) One exact copy of each application shall be filed with the original.

(p) The Tax Commission may review applications for procedural defects on its own initiative.

(q) The Tax Commission may permit cure of procedural defects in applications, including defects in applicable forms and income and expense schedules that are part of an application, set forth in this section, §3-04 of this chapter, and §4-03 of chapter four of this title if the application has been shown to be meritorious and if the cure is made no later than the hearing or other review.

**§3-04 Substantive and Procedural Requirements for Income and Expense Schedules.**

(a) An applicant shall report all income received or accrued and all expenses paid or incurred in the operation of the property in the reporting period specified in Charter §163 or §164-a.

(b) Income and expense information shall be filed in the form prescribed for such purpose, in accordance with published instructions.

(c) The applicant shall complete all applicable items listed in the prescribed form.

(d) An income and expense schedule required by Charter §163 or §164-a or this section shall be filed as part of an application to review an assessment, unless such law permits the filing of an income and expense schedule until March 24, in which case such income and expense schedules must be received by the Tax Commission no later than 5:00 P.M. on such date. When March 24 falls on a Saturday or Sunday, income and expense schedules are timely if filed no later than 5:00 P.M. on the preceding Friday.

(e) An income and expense schedule not included in an application must be filed attached to a supplemental application form.

(f) If the property is occupied exclusively by seven families or more and operated by a cooperative or condominium corporation, the cooperative or condominium corporation applicant must file an income and expense schedule in a form prescribed as part of the application or supplemental application.

(g) If the property is operated as a hotel or motel, the applicant must file an income and expense schedule in a form prescribed as part of the application or supplemental application.

(h) If the property is owner-occupied, in whole or part, for business purposes as a department store, garage or other vehicle parking site, or theater, the applicant must file a schedule of gross receipts for the most recent three years in a form prescribed as part of the application or supplemental application.

(i) An application may be denied review where income and expense information required by law or this chapter is not filed timely, not filed in the prescribed form, incomplete, or otherwise defective.