TAX COMMISSION OF
THE CITY OF NEW YORK

NOTICE OF OPPORTUNITY TO COMMENT ON
AMENDMENTS TO THE RULES PERTAINING TO PRACTICE
FOR PROCEEDINGS BEFORE THE TAX COMMISSION

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Tax Commission by Chapter 7 and in accordance with the requirements of §1043 of the New York City Charter that the Tax Commission of the City of New York intends to amend Title 21 of the Official Compilation of Rules of the City of New York concerning practice for proceedings before the Tax Commission. Additions to the rules are underlined and proposed deletions are [bracketed].

Written comment regarding these rules may be sent to Reed Schneider, General Counsel, New York City Tax Commission, 1 Centre Street, Room 936, New York, New York 10007 (telephone number (212) 669-8579), on or before January 22, 2008. A public hearing shall be held at 1 Centre Street, Room 2405, New York, New York 10007 on January 22, 2008 from 10:00 A.M. until 11:00 A.M. Persons seeking to testify are requested to notify Starr Martinez, New York City Tax Commission, 1 Centre Street, Room 936, New York, New York 10007 (telephone number (212) 669-8579), prior to the date of the hearing. Speakers will be limited to five minutes. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify Starr Martinez by January 15, 2008. Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 9:00 A.M. and 5:00 P.M. at the office of the General Counsel at the address set forth above.

Dated: December 17, 2007

Section 1. The definition of REPRESENTATIVE in section 1-03 of Title 21 of the Rules of the City of New York is amended to read as follows:

"Representative" means the person or firm, including any individual within the firm whom the firm designates, who is designated by the applicant to appear in support of an application in accordance with chapter two of this title.

§ 2. Subdivision (e) of section 2-01 of Title 21 of the Rules of the City of New York is amended to read as follows:

(e) [The Tax Commission shall communicate only with the applicant's designated representative or with a self-represented applicant with respect to an application, unless otherwise specifically provided hereinafter.] An applicant who is not self-represented

shall communicate with the Tax Commission only through the applicant's representative with respect to an application.

§ 3. Subdivision (p) of section 2-02 of Title 21 of the Rules of the City of New York is amended to read as follows:

(p) [Representatives shall acknowledge in writing their agreement to observe Tax Commission rules and instructions in good faith and with due diligence before they may appear before the Tax Commission.] Representatives shall not engage in contemptuous conduct in practicing before the Tax Commission, including, but not limited to, using abusive language, making false or misleading accusations or statements, either intentionally or negligently, or persistently disregarding Tax Commission rules or written instructions, either intentionally or negligently.

§ 4. Subdivisions (q), (r), (s), (t), (u) and (v) of section 2-02 of Title 21 of the Rules of the City of New York are relettered subdivisions (r), (s), (t), (u), (v) and (w), and a new subdivision (q) is added and paragraphs (r), (s), (t), (u) and (w) as relettered herein are amended to read as follows:

(q) Before a representative may represent an applicant before the Tax Commission, he or she shall register with the Tax Commission. Such registration shall be on a form prescribed by the Tax Commission and shall include an acknowledgement by the representative of his or her agreement to observe Tax Commission rules and instructions in good faith and with due diligence. Such registration shall be renewed annually and updated in accordance with the instructions of the Tax Commission.

(r) The Tax Commission may deny or defer review of an application or withdraw an offer affected by a representative's or applicant's failure to comply with a rule in this [section] title or a written instruction.

(s) After providing the representative with notice and an opportunity to be heard, the Tax Commission may suspend for up to five years from practice before the Tax Commission on all or some applications or may censure any representative who fails to comply with a rule in this section. Upon a determination of probable cause that a representative has failed to comply with a rule in this section, the representative may be temporarily suspended pending a final determination of suspension..

(t) After providing the representative with notice and an opportunity to be heard, the Tax Commission may suspend [such] the representative for up to one year from practice before the Tax Commission on all or some applications [in cases] or may censure the representative where the representative fails to comply with a [Tax Commission] written instruction or rule not in this section or to adhere to a schedule for appearance[, provided that the Tax Commission has warned the representative in writing of a prior instance of similar noncompliance within the past three years]. Upon a determination of probable cause that a representative[, after having been sent a warning,] has failed to comply with [an] a written instruction or rule not in this section or

to adhere to a schedule for appearance, the representative may be temporarily suspended pending a final determination of suspension.

(u) The Tax Commission may publish notice and may notify applicants that it has [disqualified or] suspended or censured a representative. Such notice may state the basis of the suspension or censure and identify the applicant, property and representative.

(w) [After providing the representative with an opportunity to be heard, the] The Tax Commission may [publish notice] notify the applicant and the applicant's representative of a determination to deny or defer review of an application for a [procedural defect or a] representative's failure to comply with a rule in this [section] title or a written instruction and may publish notice of that determination. [Such] A published notice may state the basis of the determination and identify the applicant[,] and property [and representative]. After providing the representative with notice and an opportunity to be heard, a published notice may identify the representative.

§ 5. Subparagraph (i) of paragraph (1) of subdivision (c) of section 2-04 of Title 21 of the Rules of the City of New York is amended to read as follows:

(i) An application on a property indicated on the assessment roll by block and lot, including a condominium unit, assessed at [$40,000,000] $45,000,000 or more, or such other amount specified in the instructions of the Tax Commission.

§ 6. Subparagraph (i) of paragraph (2) of subdivision (c) of section 2-04 of Title 21 of the Rules of the City of New York is amended to read as follows:

(i) An application on a property indicated on the assessment roll by block and lot assessed at less than [$40,000,000] $45,000,000, or such other amount specified in the instructions of the Tax Commission, where such application is:

§ 7. Subdivisions (b) and (o) of section 3-03 of Title 21 of the Rules of the City of New York are amended to read as follows:

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

(o) One exact copy of each application shall be filed with the original, unless otherwise provided in written instructions.

§ 8. Subdivisions (c), (d), (e), (f), (g) and (h) section 4-02 of Title 21 of the Rules of the City of New York are relettered subdivisions (d), (e), (f), (g), (h) and (i) and a new subdivision (c) is added to read as follows:

(c) The applicant did not file a separate application for each separately assessed property that is not a condominium unit.

§ 9. Subdivisions (a), (b), (c), (d), (e), (f), (g), (h) and (i) of section 4-03 of Title 21 of the Rules of the City of New York are relettered subdivisions (d), (e), (f), (g), (h), (i), (j), (k) and (l) and new subdivisions (a), (b), (c) and (m) are added to read as follows:

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

(b) The applicant did not file the form as instructed for the claims made or the tax class of the property.

(c) The applicant filed more than one application for review of the same assessment.

(m) The applicant seeking full or partial exemption or reclassification:

(1) did not arrange with the City to promptly set an appointment to conduct an inspection.

(2) did not, either directly or through a representative, notify the Tax Commission by telephone or fax, email or other writing received on or before April 10, or by 5:00 P.M. the following Monday when April 10 falls on a Saturday or Sunday, that an appointment to conduct an inspection has not been set.

§ 10. Subdivision (c) of section 4-05 of Title 21 of the Rules of the City of New York is amended to read as follows:

(c) Failure to file a certificate of litigation status or errors therein may result in denial of review, and such a failure or such errors causing an error in the terms of an offer may result in the denial of a request for a revised offer.

§ 11. These amendments shall take effect immediately; provided, however, that sections five and six of these amendments shall apply to applications filed on or after January 15, 2008.

STATEMENT OF BASIS AND PURPOSE

The proposed amendments revise the rules governing practice for proceedings before the Tax Commission, which became effective in 2006. Proceedings before the Tax Commission involve applications for the review and correction of tentative real property tax assessments published each year by the Department of Finance. The rules relate to the exercise of Tax Commission powers and duties pursuant to New York City Charter §§ 153 to 166 and Administrative Code §§ 11-216 and 11-225 to 11-231. The proposed amendments will improve the ability of the Tax Commission to provide taxpayers fair and timely review of real property tax assessments and promote the integrity of the assessment review process. The proposed amendments reflect changes in Tax Commission policies.

The proposed amendments cover certain aspects of the process of applying for administrative review of real property tax assessments, including the following items:

The definition of "representative" is amended to make clear that an individual within the firm that represents an applicant is also a representative and obligated to register, as well as otherwise comply with the rules relating to representatives. The method by which representatives are to register and acknowledge, in writing, their agreement to abide by these rules, is specified.

Applicants represented by someone else are required to communicate with the Tax Commission about an application through that representative.

Standards of conduct prescribed for self-represented applicants and representatives are revised to provide more flexibility to the Tax Commission to deter misconduct by representatives. Representatives are now required to abstain from contemptuous conduct in practicing before the Tax Commission. Such conduct includes, without limitation, using abusive language, making false or misleading accusations or statements, and persistently disregarding rules or written instructions. Noncompliance with written Tax Commission instructions may result in denial or deferral of review of an application, or the withdrawal of an offer. A sanction imposed by the Tax Commission on a representative or a finding of noncompliance with these rules or written Tax Commission instructions by a representative may be published after notice and an opportunity to be heard.

The assessment thresholds that establish the place and manner for filing applications relating to the most highly valued properties are revised to conform to current practice.

The circumstances in which a copy of an application is required to be filed with the original are clarified.

Finally, the circumstances in which a failure to meet procedural requirements to obtain review will result in mandatory denial of review or permissive denial or discontinuance of review are clarified.