

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

**MEETING OF OCTOBER 28, 2020**

A meeting of the State Board of Real Property Tax Services was held via teleconference, as authorized by Executive Order 202.1 and various successor Orders. The following members and staff were present:

Matthew Rand, *Chairman*  
Scott Becker  
Samuel Casella

Tim Maher, *Acting Secretary of the State Board and Director of Real Property Tax Services*  
Joseph Gerberg, *Legal Advisor to the State Board, Office of Counsel*  
Brittany Murphy, *2<sup>nd</sup> Assistant to the State Board, Office of Real Property Tax Services*

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

*NOTE: Detailed staff reports/recommendations to the State Board are available upon request. Resolutions of the State Board and the on-demand webcast are available after the meeting date on the State Board's page at the Tax Department's website.*

Mr. Rand called the State Board of Real Property Tax Services meeting to order at 11:03 A.M.

## **Meeting Minutes – October 28, 2020**

### **Agenda Item No. I – State Board Administration – Minutes of the July 29, 2020 State Board meeting**

On motion of Mr. Becker, seconded by Mr. Casella, Mr. Rand stated that the minutes of the July 29, 2020 Board meeting stand approved and are, hereby, adopted as written.

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

Mr. Maher began by stating Mr. Gerberg had a new proposal for the STAR exemption appeal process.

Mr. Gerberg stated during the last meeting, the Board expressed concern about the previously proposed appeal process. After further research, it was concluded that an appeal that constitutes a presentation of an argument on paper, and consideration of the appellate body with the papers without in person appearances, can reasonably be considered a hearing.

Mr. Gerberg stated he believed the newly proposed appeal process would be a better model, he asked if the Board would consider it. He went on to summarize the process. He stated that when an appeal is made of the Office of Real Property Tax Services' (ORPTS) decision, the Board would review the appeal and come to a decision. He mentioned it is possible the property owner would attend since the meetings are open and anyone is entitled to observe. The newly proposed process assumes that the Board would be working with paper recommendations versus an in-person appeal. If the property owner would like to speak and address the Board, it is at the Board's discretion.

Mr. Gerberg recommended the adoption of resolution 20-09 which would repeal resolution 20-08 and adopt alternative procedures in its place.

Mr. Casella then made such a motion, which was seconded by Mr. Becker.

Mr. Casella asked how the new resolution would affect the current process and if the Board would need to meet on more frequently.

Mr. Gerberg stated the frequency of the meetings would not change. Mr. Gerberg went on to describe the process further. He said a memo would be given to the Board members that would have a breakdown of how many appeals belong to what category; denials based on income, denials based on age, etc. He stated that there would be discussion of each case, but it would not take hours to get through. Mr. Gerberg stated that the four meetings per year should provide adequate time for the Board members to hear the appeals, however if there is an increase in the amount of appeals then an extra meeting could be added.

Mr. Rand asked if there is a deadline for the appeal resolution.

Mr. Gerberg stated there is no specific deadline.

Mr. Rand stated that he was certain all the appeals will not be able to be reviewed in the November meeting, and that many appeals will not be reviewed until the next meeting.

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Mr. Gerberg agreed and stated the next meeting is proposed for February 2, 2021. He said usually the February meetings are canceled, but for this purpose it would be held.

Mr. Rand asked if the ORPTS staff reviews if the taxpayer has provided new evidence for the appeal.

Mr. Gerberg stated ORPTS staff will issue the check if they believe the property owner is eligible after reviewing new information. He explained that in such a case, those appeals would not go to the Board. Mr. Gerberg said the Board does have the authority to request to see all appeals, but since there would no longer be a disagreement, he did not see a need to take up time with those cases.

Mr. Rand agreed that those settled appeals would not need to be brought to the Board.

Mr. Casella asked if the proposed procedures are specifically for STAR exemptions.

Mr. Gerberg confirmed they are specifically for the STAR exemption appeals; the other matters handled by the Board would not be impacted.

Mr. Becker expressed concern about taxpayers joining the call and requesting to be heard. He explained that if a taxpayer is granted permission to address the Board, he doesn't want another taxpayer to have a bases to state that they weren't advised of this option. He asks for Mr. Gerberg's thoughts.

Mr. Gerberg said he understood Mr. Becker's concern and that he doesn't believe it rises to the matter of a due process violation. He stated if the Board wants to have a uniform policy they can, but the resolution does not need to address that. Mr. Gerberg said the resolution states that the meeting is public, and anyone can attend, it's a matter of discretion of the Board if they will allow a taxpayer to speak.

Mr. Becker agreed; if it is a matter of discretion for the Board then it is not a matter of due process.

Mr. Gerberg stated that is right, and that is the essence of discretion.

Mr. Becker asked if the taxpayer would include documentation along with their appeal.

Mr. Gerberg responded that there is an appeal form and they have the option of including documentation.

Mr. Becker asked if the meeting minutes must include a rationale, or if the Board members simply grant or deny the appeal.

Mr. Gerberg responded that the phrase "Based on the information provided, the Board affirms the determination of staff" is enough.

Mr. Becker agreed with the process.

Mr. Rand also agreed that it is fair and efficient.

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Mr. Rand asked if there was any further discussion, and being none, called for a vote on the motion. Upon the affirmative votes of Messrs. Becker, Casella and Rand, the Board approved resolution 20-09.

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

Mr. Rand asked if there was anyone else who would like to address the Board or if anyone wants to discuss the proposed schedule for next year.

Mr. Becker stated the dates that were proposed for 2021 work with his schedule.

Mr. Casella agreed and stated there is no conflict with his schedule.

Mr. Rand also agreed.

Mr. Casella thanked all the staff.

With no further questions or comments, on motion of Mr. Becker, seconded by Mr. Casella, the Board concluded its meeting at 11:23 AM.

Respectfully submitted,

Tim Maher  
Acting Secretary of the State Board