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We want to be clear that we have a shared goal here, which is to ensure that properties are more properly assessed in accordance with their actual value. And it is to all of our benefit that the new Assessor have the tools that he needs to do that.

But this bill, as currently drafted, has many in the retail community concerned.

Our understanding is that the Assessor would like to take the new information that we would be required to submit annually and use it to create a database that develops an average market range so that assessments are more accurately tied to the market. But we don't have any guarantee that the information will be both verified and adjusted before those ranges are developed. How will market conditions be accounted for when considering leases that may be above or below market rate? How will leased fee sales be treated? Will the taxpayer have an opportunity to challenge the Assessor's methodology? How will taxpayers know exactly what information they will need to provide? My understanding is that New York, which this bill is based in part on, has a form that taxpayers can fill out so that it isn't a guessing game. At this point, it doesn't seem like the Assessor's office will follow that part of their model. In addition, we are unconvinced that the Assessor's office has the resources to handle the volume of data that we are being asked to provide. Without those resources, we simply don't have the confidence of knowing that the data is being adjusted properly in order to produce value indications that aren't in conflict with one another. Moreover, it probably goes without saying that the commercial rental market is a competitive business. We need assurances that the data, which is FOIA-able will not be backed out so that rental rate information, which is a valuable commodity, can't somehow be obtained through FOIA.

The bill states that in order to determine the value of the property for assessment purposes, the assessor may consider all relevant information pertaining to the cash value of the property, including income and expense information. It is unclear though, if the assessor will be using the actual income data that the taxpayer submits to value that actual property. Or if he will be using income and expense data that has been compiled from the information that has been submitted from all income producing properties. Regardless of which method he chooses, will the assessor be using raw data? Or making valuation adjustments?

We are also concerned about the timing for providing this information. Many taxpayers will be put in a position of providing income and expenses before they've actually filed their income taxes. Therefore, it is highly likely that the information they provide will be inaccurate, incomplete and insufficient which defeats the purpose of determining a more accurate market range from which to create the assessor's database.

And if we get any of this wrong, even in the most earnest attempt to comply with this ordinance, there is a pretty extensive penalties section that we feel is particularly punitive. There is no nexus between the penalty (which is 2% of the assessed valuation) and the violation (which would be a failure to provide income and expense information) which would be creating vast disparities in penalties for violating the same section. We would encourage the assessor to establish a uniform penalty. In addition, we would argue that there is a lack of due process because it does not provide a procedure for the taxpayer to object before penalties are assessed considering the sheer volume of information we are expected to provide.

While we believe that the amended version of the bill attempts to address some of our concerns, making a change to the law that is this substantial deserves more discussion than we've had to date. But we are encouraged that the Assessor has so far been agreeable to continue talking. We don't expect for our property tax valuation system to change overnight, what we want is to ensure that the changes are fair to ALL taxpayers, based on accurate information and that the information we provide is kept secure.

So, at this time, we feel that it is important to register our opposition until the concerns of commercial taxpayers have been addressed.