

**2010 SURVEY OF NEW YORK STATE TAX
CERTIORARI, TAX EXEMPTION, AND
EMINENT DOMAIN CASES**

February 10, 2010

By Thomas A. Dickerson and John R. LaCava¹

Much transpired in 2010 in the fields of tax certiorari, eminent domain and tax exemptions. Specifically, the Courts continue to explore the ramifications of *Kelo v. City of New London*¹, the scope of real property tax exemptions for forests, wealthy seniors and MTA police stations, inverse condemnation by telecommunications companies, notice and jurisdiction, valuation of gravel mining pits, electric transmission lines and refuse collection services and the propriety of a JHO's decision to dismiss SCAR petitions based upon homeowners failure to permit inspection of their properties by Town assessor.

The Court Of Appeals

¹Thomas A. Dickerson is an Associate Justice of the Appellate Division, Second Department and formerly presided over the Tax Certiorari/Condemnation Part of the 9th J.D. John R. LaCava is an Associate Justice of the Appellate Term 9th and 10th Judicial Districts and presently presides over Tax Certiorari, Condemnation, and Exemption cases in Westchester County and the 9th J.D. John Mechmann, Principal Law Clerk to Justice LaCava, assisted in the preparation of this article.

Consistent with its 2009 decision in *Matter of Goldstein v. New York State Urban Dev. Corp.*² the Court of Appeals in *Kaur v. New York State Urban Development Corp.*³ reversed the Appellate Division First Department's annulment of a determination by the New York State Urban Development Corporation (UDC) approving the acquisition of 17 acres of privately owned property for Columbia University's project to, *inter alia*, build 16 "new state-of-the-art" buildings. In finding that the Project qualified as a "civic project" under the UDC Act the Court noted that "In addition to hiring 14,000 people for construction...Columbia estimates that it will accommodate 6,000 permanent employees...the Project... Provides for the expansion of Columbia's educational facilities and countless public benefits to the surrounding neighborhood".

And in *Gordon v. Town of Esopus*⁴ petitioner's 104 acres on the Hudson River had since 1978 been certified by the DEC as "forest land" pursuant to RPTL § 480-a which provides for an 80% tax exemption of assessed valuation as long as certain conditions are met. Starting in 2002 the Town of Esopus began assessing the petitioner's "forest" land as vacant land, "a determination that would allow the land to be assessed for tax purposes based on its present potential for development, its 'highest and best' use". In reversing the Appellate Division Third Department's affirmance of the Town's treatment of petitioner's "forest land" the Court noted that the Legislature in enacting RPTL § 480-a sought to "preserve New York's forest land and to make the management of

forest land more economical for property owners” and held that “forest land is recognized...as an established category of use, not some sort of taxpayer charade to reduce the assessed value of land”.

The Wealthy And Healthy

In *Miriam Osborn Memorial Home Association v. Assessor of City of Rye*⁵ the Appellate Division Second Department held that the Miriam Osborn Memorial Home (Osborn), a home providing care, primarily, to indigent elderly women from 1908 to the early 1990s, would no longer receive a 100% tax exemption pursuant to RPTL § 420-a(1). The reason being that in the 1990s the Osborn, faced with difficult financial circumstances, transformed itself “from an adult home for indigent elderly women to a full-scale CCRC (Continuing Care Retirement Community) designed to attract wealthy seniors with high end housing units and amenities”. At the new Osborn the entrance and monthly maintenance fees were high⁶, the operating costs were high⁷ and “73% of the applicants (252 seniors) placed on the waiting list...have an individual or joint net worth with their spouses of between \$2 million and \$25 million. No applicant on the waiting list has a net worth of less than \$325,000”. Regarding the status of the Osborn’s skilled nursing facility the Court rejected a partial hospital use exemption “where, as here, the primary use of the property is not

for an exempted purpose, the property owner is not entitled to any exemption, even if a small portion of the property is used for an exempted purpose". And lastly, in terms of valuation theory the Court rejected the City of Rye's business enterprise income analysis finding that "in tax certiorari valuation, the income stream subject to capitalization measures the rental value of the property, exclusive of the business conducted on the property".

Inverse Condemnation

Not since the 1980's case of *Loretto v. Teleprompter Manhattan CATV Corp.*⁸ have the courts been called upon to address the equities of the use of private property in New York City by telecommunication companies for the allegedly uncompensated placement of terminal boxes, cables and other hardware. In *Corsello v. Verizon New York, Inc.*⁹, a class of property owners challenged defendant's use of "inside-block cable architecture" instead of "pole-mounted aerial terminal architecture " often turning privately owned buildings into "community telephone pole(s)". On a motion to dismiss, the Appellate Division, Second Department held that an inverse condemnation claim was stated noting that the allegations "are sufficient to describe a permanent physical occupation of the plaintiffs' property". The court also found that a General Business Law § 349 (GBL) claim

was stated for "[t]he alleged deceptive practices committed by Verizon...of an omission and a misrepresentation; the former is based on Verizon's purported failure to inform the plaintiffs that they were entitled to compensation for the taking of a portion of their property, while the latter is based on Verizon's purported misrepresentation to the plaintiffs that they were obligated to accede to its request to attach its equipment to their building, without any compensation, as a condition to the provision of service". The court also found that although the inverse condemnation claim was time barred, the GBL 349 claim was not ["A 'defendant may be estopped to plead the Statute of Limitations...where plaintiff was induced by fraud, misrepresentations or deception to refrain from filing a timely action'"].

Post Judgement Condemnation Issues

In *Matter of Village of Dobbs Ferry v. Stanley Avenue Properties, Inc., et al*¹⁰, the Village was ordered to pay the sum of \$1,372,750 for the calculated loss from the taking. The Court did not, however, direct submission of a Judgement on Notice pursuant to 22 NYCRR 202.48. The parties then, in good faith, engaged earnestly in protracted settlement negotiations which, at one point produced an apparent agreement which was favorable to the Village and would have relieved it of its obligation to pay

the condemnation award in exchange for a commitment by the claimant to build affordable housing, with County financing, on the remainder parcel. After approximately twenty-nine months however, the negotiations irretrievably broke down. After the Judgement was submitted, the Village moved to deem the compensation award abandoned, and claimant cross-moved to have the clerk ordered to enter Judgement. Supreme Court, excusing the belated filing, granted the cross-motion finding that the 60 day limitation of 22 NYCRR 202.48 was inapplicable since submission of a judgement was not originally ordered by the Court, and that the Village, having participated in the process that caused the delay, should not now be able to successfully assert that claimant has abandoned its right to enforce the judgement.

*County of Rockland v. Donald A. Lucca, Jr., et al*¹¹ involved the issue of where to deposit advance payment funds where there were competing claims (two apparently unsatisfied mortgages on the property) in addition to the condemnees' ownership interest. Supreme Court held that the deposit of the advance funds was to be made with the County Clerk pending final resolution of the percentage of entitlement of each of those interests.

In *Matter of City of New York (West Bushwick Urban Renewal Area)*¹², the Supreme Court ruled that EDPL 304 (H) must be strictly construed, and the City, in this fixtures claim, was denied relief when its motion for reimbursement of its advanced payment was not made within thirty days of service of the order

of the Appellate Division with notice of entry.

Notice And Jurisdiction

When an attorney commences tax certiorari proceedings pursuant to RPTL Article 7, notices of petitions and petitions must (unless otherwise indicated) be mailed to the superintendent of the school district in which the property or any part thereof is located [RPTL §708(3)]. A recurring problem in tax certiorari practice occurs when multiple school districts are located within a municipality or township and mailing of the notices and petitions is mistakenly and incorrectly made to the superintendent of an adjoining school district, also located within the municipality, rather than to the superintendent of the district in which the property is actually located. In *Board of Managers of Copley Court Condominium v. Town of Ossining*¹³, the Second Department recently determined, on this issue, that "... the mistake or omission of [the] petitioner's attorney does not constitute good cause shown within the meaning of RPTL 708(3) to excuse [the] petitioner's failure to comply with that section."¹⁴ To reach its decision in *Copley*, the Second Department relied on, among other cases, *Matter of Gatsby Industrial Real Estate, Inc. v. Fox*¹⁵, and last year's Fourth Department decision in *Matter of MM1, LLC v. LaVancher*¹⁶. Both cases involved a failure to mail a copy of the petition to the local school district (as required under RPTL § 708 [3]), which failure was not excused for good cause shown. The latter

Court did hold, however, that such failure of notice is not a jurisdictional defect, since the mailing is not service upon the school district, and that the trial court properly granted leave to commence a new proceeding pursuant to CPLR §205(a). Thus, following *MM1*, it would appear that the petitioner in *Copley* might, pursuant to CPLR 205(a), be able to seek leave to commence a new action for at least some of the tax years at issue.

Other RPTL 708(3) Issues

While RPTL 708 (3) requires that the notice of petition and petition be mailed to the superintendent (see *supra*), the Supreme Court in *Matter of Hansen v Town of Red Hook*¹⁷ approved an alternate procedure. Petitioner's attorney called and spoke to the superintendent's personal secretary who notified him that she and the superintendent would be unavailable to receive the papers at the time that the attorney intended to personally deliver them, but directed him to serve the notice and petition upon another named district employee who would then bring the papers to her for delivery to the superintendent upon his return from vacation. The attorney timely followed the instructions and later confirmed that the notice and petition were received by the secretary and the superintendent, and then conveyed, per district policy, to the tax collector.

In *Matter of Ryan v. Town of Cortlandt*¹⁸, the Town and petitioner settled the matter for assessment reductions in each tax year, and

petitioner presented the stipulation to the school district for refunds. The district, rather than seeking the usual remedy of dismissal for failure by petitioner to timely serve the superintendent, instead only sought (and was granted) intervention in order to be relieved of the binding effects (pursuant to RPTL 726 [1] [c]) of the prior settlement.

Other Exemption Cases

In an interesting decision, *Matter of Warrensburg Commons LPT v Town Assessor of the Town of Warrensburg*¹⁹, the Third Department found that the failure to comply with a regulation of the Division of Housing and Community Renewal that directs owners of low income housing to provide income documentation to the local assessor did not preclude the use of RPTL 581-a as a valuation method and, thus, was not fatal to the petitions.

In *Matter of Metropolitan Transportation Authority v City of Mount Vernon*²⁰, the Supreme Court determined that pursuant to Public Authorities Law §1275 property rented by the MTA for the purposes of establishing and maintaining an MTA Police Department Station is property that is leased by the Authority for transportation purposes notwithstanding that the lessor is a private and not a tax exempt entity. The decision also noted the distinction in the application process for a real property tax exemption between RPTL Article 4, Title 2 involving private property wherein the applicant is required

to fill in and submit an official ORPS application form to the taxing authority, and an application pursuant to RPTL Article 4, Title 1 wherein a public authority seeking an exemption need merely advise the municipality or taxing authority of the property status and/or the proposed use to claim an exemption.

In *Matter of St. Francis Hospital v Taber*²¹, the Second Department found that the hospital was entitled to only a partial exemption for its parking garage. Certain spaces were used by its attending physicians who also had offices and engaged in the private practice of medicine as sub-tenants in a medical office building located on hospital property. Since such private practice of medicine is primarily a commercial enterprise, not entitled to a tax exemption under RPTL 420-a, the parking spaces subleased to those offices cannot be said to further the hospital's purposes as to create an entitlement to an exemption.

In *Matter of Lake Forest Senior Living Community, Inc v Assessor of the City of Plattsburgh, et al*²², the Third Department affirmed the Supreme Court's finding that, even though there was no change in the property's use, revocation of petitioner/congregate living facility's exemption was appropriate. Here, petitioner's providing of housing to middle income seniors, none of whom received supplemental security income or other governmental benefits, at market rates does not constitute a charitable activity. Additionally, the fact that personal care services (many of which are not provided free of charge) are available to residents does not make its activity charitable.

Finally, in *Rockland Hebrew Educational Center, Inc. v Village of Spring Valley, et al*²³, Supreme Court determined that even though the Village failed to disprove that the primary use of the premises was the conducting of religious activity in conformance with the Center's avowed religious purpose, the holding of religious services at the site in knowing violation of the village zoning code was a complete bar to eligibility for a RPTL §420-a (1) exemption. Since the evidence showed that the Rabbi presided as clergyman for the Center and that he and his family resided at the premises, petitioner was entitled to a "Parsonage Exemption" under RPTL §462.

Interesting Valuation Theories

In *Matter of John Jay College of Criminal Justice*²⁴, the First Department, *inter alia*, affirmed the trial court's denial of a motion to re-open the record or to grant a new trial. The speculative nature of the proposed development did not support petitioner's proposed highest and best use. Among the factors considered were the inability to obtain any financing commitment at the time of the taking, or any signed leases for the development. The appraisal, rejected by the court, was also speculative as based on capitalization of income. The appraiser's addition of \$37.8 million in value for entrepreneurial profit was properly rejected since any claimed developer enhancements

were only at the preliminary stage and there was credible testimony that the plans were not compliant with the zoning or the special permits for the property.

Gravel Mining

Similarly, the Supreme Court in *Matter of Metropolitan Transportation Authority (Washed Aggregate Resources, Inc., Claimant)*²⁵, which involved a claim for the valuation of gravel mining properties taken in eminent domain, rejected claimant's discounted cash flow analysis and its methodology for a number of reasons including the fact that the appraisers valued a hypothetical quarry operation based upon assumptions regarding business activity, production levels, and income never previously generated, and compounded that error by calculating only the present worth of the property rather than completing the analysis by discounting that figure to get the present worth of the reversion of the remaining land.

Electric Transmission Lines

In a proceeding to review assessments of parcels consisting of gas and electric transmission lines, the Second Department in *Matter of Central Hudson Gas and Electric v Assessor of Town of Newburgh*²⁶ found that the Supreme Court erred in granting a motion to

strike that portion of claimant's trial appraisal report concerning valuation of easements on which transmission lines were placed based upon the Town's determination that easements were not subject to tax as real property. When an assessor values real property, although the owner of the property is taxed on the full value of the land, the holder of the easement is normally not additionally taxed for the benefit incurred from the easement. Thus, in this case the Town had ascribed a land value of \$0.00 on its rolls to each of the parcels on which the utility lines were located and considered as improvements. The parties agreed that the appropriate method of valuation for all components of the utility was "reproduction cost new less depreciation." While the value of the easements is not taxable, the trial Court erred in striking that portion of the petitioner's appraisal which included the costs of acquiring those easements. In a "reproduction cost new less depreciation" analysis, those costs were necessary to the re-creation of the value of functioning transmission lines, and therefore must be considered in re-calculating reproduction cost of the subject transmission lines.

Refuse Collection Services

In *New York Telephone Company v. Supervisor, Town of North Hempstead*²⁷, the Second Department affirmed Supreme Court's granting of partial summary judgement to Verizon New York and refund for special ad valorem levies relating to garbage and refuse collection services

for Verizon's "mass property" comprising telephone poles, lines, wires, and electrical conductor enclosures. The levies were invalid under RPTL §102(14) because the properties did not and could not receive any direct benefit from the refuse collection service.

Mobile Home Parks

Petitioner/owner of two mobile home parks totaling over 106 acres and housing 241 units brought a proceeding to challenge the assessor's combined full market valuation of the properties at \$8,278,100. In *Matter of Northern Pines MHP LLC v. Board of Assessment Review of the Town of Milton et al.*²⁸, the Third Department affirmed the Supreme Court's adaptation of petitioner's appraisal and its valuation of \$5,950,000 finding that it focused on the extensive experience of petitioner's appraiser in the mobile home industry, his detailed documentation of the character and configuration of each mobile home, his use of four similar mobile home parks in his market comparison analysis, his reliance on figures in his income analysis that were based on income actually generated by the properties, and his use of a capitalization rate that was supported by documentary evidence introduced at trial, whereas there was no support in the record for respondents' position that the property had tripled in value since it was purchased four years earlier.

SCAR Home Inspections

In *Matter of Yee v. Town of Orangetown*²⁹, three homeowners brought an article 78 proceeding to review a judicial hearing officer's dismissal of their Small Claims Assessment Review (SCAR) proceeding which challenged the valuation of their property and the tax assessments imposed by the Town. At the pretrial conferences of the SCAR proceedings held before the Judicial Hearing Officer (JHO), the towns requested that their representatives be permitted to inspect the homes of the petitioners. The petitioners refused to permit the inspections. The towns made an oral application for dismissal of the SCAR petitions, asserting that they had the right to inspect the petitioners' homes. The JHO dismissed the SCAR petitions, with prejudice, holding that, when a homeowner files a SCAR petition, that homeowner makes a limited and revocable waiver of a right to privacy and consents to inspection and, upon a demand for an inspection by the Town, must comply to avoid dismissal of the proceeding. Supreme Court adopted the JHO's position and dismissed petitioner's Article 78 proceeding. The Second Department reversed, holding that the JHO exceeded his authority by directing that the homeowners consent to an inspection of their properties by the Town assessor or face dismissal of their SCAR proceeding. The Appellate Panel noted that when the Judicial Hearing Officer's determinations are contested, the court is limited to ascertaining whether those determinations have a rational basis. Additionally, while RPTL §732(2) contemplates and authorizes a viewing by the fact finder (here the JHO), it does not apply to an adversarial party such as the tax assessors in this case. The Court

also found that the JHO's determination to require an inspection without the homeowners' permission violated Fourth Amendment principles and petitioners' rights against unreasonable search and seizure, noting that "except in certain carefully defined classes of cases, a search of private property without proper consent is unreasonable unless it has been authorized by a valid search warrant."

Other SCAR Cases

In *Matter of Greenfield v. Town of Babylon Dept. of Assessment*³⁰, Supreme Court's dismissal of motion to annul hearing officer's determination in the SCAR proceeding that homeowner had failed to establish that the assessed valuation of his property exceeded its full value was affirmed by the Second Department. When such a determination is contested, the court's role is limited to ascertaining whether there was a rational basis for that determination. Here, petitioner submitted the applicable residential assessment ratio (RAR) which, by definition is the median percentage of value applied to residential property by the assessing unit during the preceding year. Homeowner, however, failed to establish that the full market value of his property, multiplied by the applicable RAR, was less than the assessed valuation of his property.

In *Matter of Sass v. Town of Brookhaven*,³¹ the Second Department found that the decision of the hearing officer to deny a claim for

assessment reduction lacked rational basis and was arbitrary and capricious where petitioner submitted sales figures from six comparable properties tending to establish that tax assessment appeared excessive or unequal, the town submitted no opposition, and the hearing officer, without any stated reason, ignored comparable properties in reaching his conclusion.

Discovery Issues

Normally, in a tax appeal context, any party who fails to serve an appraisal report by the exchange date is precluded from offering expert testimony on value unless such default is excused by the Court upon application and good cause shown. In *Matter of Long Island Industrials Group v. Board of Assessors*³², the dismissal of the proceeding relating to the earliest tax year for failure to serve its appraisal by the exchange date was conceded to be proper by the County of Nassau, however, the Second Department found that the Supreme Court erred when it precluded valuation testimony for the succeeding years in issue. The succeeding cases could not be consolidated, nor could notes of issue be filed, until after the income and expense statements were filed in August, 2008. The latter event occurred after the Court ordered exchange date in the earliest case, and said date did not apply to the proceedings in the succeeding tax years. Where no exchange date is ordered, parties must submit appraisals at least 10

days before trial (see 22 NYCRR 202.59 [e][1][I]). Since the Court never ordered exchange dates in the succeeding cases, the County was given leave to serve its appraisals by that date, or earlier, if so ordered.

In *Matter of Wendy's Restaurants, LLC v. Assessor, Town of Henrietta*³³, the Fourth Department affirmed Supreme Court's granting of the Town's motion to compel discovery of, inter alia, profit and loss statements, balance sheets, asset depreciation schedules, and gross and net sales revenues for the years at issue. The requested matters were relevant to the valuation of the properties, and contrary to petitioner's contention, owners of owner-occupied business properties are not exempt from the requirements of 22 NYCRR 202.59 (b).

In *Matter of Hampshire Country Club v. Assessor of The Village of Mamaroneck, et al*³⁴, while the matter was being readied for trial, respondents asserted that a recent sale of the property had occurred, and served notice pursuant to CPLR 3120 for disclosure of the details of the purported sale. Discovery was permitted despite the lateness of the request with the Court recognizing that "...a recent sale of the subject is the best evidence of value for the property, absent an abnormality, and the details of the sale may shed considerable light on whether the sale does properly reflect the current market value of the property. If so, respondents' appraisers' should have access to those details, in order to deal with this post-appraisal sale in a supplemental appraisal, and thereafter at trial."

ENDNOTES

1. *Kelo v. City of New London*, 545 U.S. 469 (2005).
2. *Matter of Goldstein v. New York State Urban Dev. Corp.*, 13 N.Y. 3d 511 (2009) ("The land use improvement plan at issue [Atlantic Yards project featuring a sports arena for the New Jersey Nets] is not directed at the wholesale eradication of

slums, but rather alleviating relatively mild conditions of urban blight...It does not seem plausible that the constitutionality of a project of this sort was meant to turn upon whether its occupancy was restricted to persons of low income").

3. *Kaur v. New York State Urban Development Corp.*, 15 N.Y. 3d 235 (2010) ("6.8 million gross square feet in size, the Project provides for the creation of about two acres of publically accessible open space, a retail market along 12th Avenue and widened, tree-lined sidewalks").

4. *Gordon v. Town of Esopus*, 15 N.Y. 3d 84 (2010).

5. *Miriam Osborn Memorial Home Association v. Assessor of City of Rye*, 80 A.D. 3d 118, 909 N.Y.S. 2d 493 (2d Dept. 2010)

6. *Id* at 909 N.Y.S. 2d 498-499 ("by 2003 the entrance fees ranged from \$301,400 to \$825,000 (and the monthly fees in 2003) ranged from \$2,595 to \$3,741. The Osborn reserves the right to terminate a resident's contract for failure to pay monthly fees").

7. *Id* at 909 N.Y.S. 2d 499, fn1 ("Some of the costs covered by the monthly fees include an executive chef who earns an annual salary in excess of \$100,000, along with one dozen cooks and preparation cooks, high end food items such as Angus beef, cavier and lobster and expensive works of art").

8. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982), revg. 53 N.Y. 2d 124 (1981), aff'g 73 A.D. 2d 849 (1st Dept. 1979).

9. *Corsello v. Verizon New York, Inc.*, 77 A.D. 3d 344 (2d Dept. 2010). See also: *Corsello v. Verizon New York, Inc.*, 76 A.D. 3d 941 (2d Dept. 2010) (class certification denied).

10. *Matter of Village of Dobbs Ferry v. Stanley Avenue Properties, Inc., et al*, 29 Misc.3d 1205 (A) (Supreme Court, Westchester County, 2010).

11. *County of Rockland v. Donald A. Lucca, Jr., et al*, 28 Misc. 3d 1047 (Supreme Court, Rockland County, 2010).

12. *Matter of City of New York (West Bushwick Urban Renewal Area)*, 2010 NY Slip Op 20208 (U) (Supreme Court, Kings County, 2010)

13. *Matter of Copley Court Condominium v. Town of Ossining*, --- N.Y.S.2d ---, 2010 WL 5187960 (N.Y.A.D. 2 Dept., 2010 N.Y.

Slip Op. 09508).

14. A contrary result in a case on point had been reached in 2007 by the Third Department which, in *Matter of Harris Bay Yacht Club, Inc. v Town of Queensbury*, 46 A.D. 3d 1304, 1306 [3d Dept. 2007], found that good cause under RPTL 708(3) was shown as "...petitioner made a good faith effort to comply with the statute but, in doing so, made a factual, geographical mistake with no apparent prejudice to the district."

15. *Matter of Gatsby Industrial Real Estate, Inc. v. Fox*, 45 A.D.3d 1480 (4th Dept. 2007).

16. *Matter of MM1, LLC v. LaVancher*, 72 A.D.3d 1497 (4th Dept. 2010).

17. *Matter of Hansen v. Town of Red Hook*, 28 Misc. 3d 1236(A) (Supreme Court, Westchester County, 2010).

18. *Matter of Ryan v. Town of Cortlandt*, 912 N.Y.S.2d 857, 2010 NY Slip Op. 20490 (Supreme Court, Westchester County, 2010).

19. *Matter of Warrensburg Commons LPT v. Town Assessor of the Town of Warrensburg*, 69 A.D. 2d 1282 (3d Dept. 2010).

20. *Matter of Metropolitan Transportation Authority v. City of Mount Vernon*, 913 N.Y.S. 2d 509, 2010 NY Slip Op. 20482 (Supreme Court, Westchester County, 2010).

21. *Matter of St. Francis Hospital v. Taber*, 76 A.D. 3d 635 (2d Dept. 2010).

22. *Matter of Lake Forest Senior Living Community, Inc v. Assessor of the City of Plattsburgh, et al*, 72 A.D. 3d 1302 (3d Dept. 2010).

23. *Rockland Hebrew Educational Center, Inc. v. Village of Spring Valley, et al*, 28 Misc. 3d 1240 (A) (Supreme Court, Rockland County, 2010)

24. *Matter of John Jay College of Criminal Justice of the City University of New York, et al v. The Dormitory Authority of the State of New York*, 74 A.D. 2d 460 (1st Dept. 2010).

25. *Matter of Metropolitan Transportation Authority (Washed Aggregate Resources, Inc., Claimant)*, 28 Misc. 3d 1229 (A) (Supreme Court, Dutchess County, 2010).

26. *Matter of Central Hudson Gas and Electric v. Assessor of Town of Newburgh*, 73 A.D.3d 1046 (2nd Dept. 2010).

27. *New York Telephone Company v. Supervisor, Town of North Hempstead*, 77 A.D.3d 121 (2nd Dept. 2010).

28. *Matter of Northern Pines MHP LLC v. Board of Assessment Review of the Town of Milton et al.*, 72 A.D.3d 1314 (3rd Dept. 2010).

29. *Matter of Yee v. Town of Orangetown*, 76 A.D.3d 104 (2nd Dept 2010).

30. *Matter of Greenfield v. Town of Babylon Dept. of Assessment*, 76 A.D.3d 1071 (2nd Dept. 2010).

31. *Matter of Sass v. Town of Brookhaven*, 73 A.D.3d 785 (2nd Dept 2010).

32. *Matter of Long Island Industrials Group v. Board of Assessors*, 72 A.D.3d 1090 (2nd Dept 2010).

33. *Matter of Wendy's Restaurants, LLC v. Assessor, Town of Henrietta*, 74 A.D.2d 1916 (4th Dept. 2010).

34. *Matter of Hampshire Country Club v Assessor of The Village of Mamaroneck, et al*, 29 Misc.3d 1239 (A) (Supreme Court, Westchester County, 2010).