

ADMINISTRATIVE ORDER #2005 - 3

COMMERCIAL TAX CERTIORARI PILOT PROJECT IN ERIE COUNTY

Pursuant to the authority vested in me as Administrative Judge for the Eighth Judicial District, I hereby institute, effective January 1, 2006, the Commercial Tax Certiorari Pilot Project in Erie County, as directed by The Honorable Jonathan Lippman, Chief Administrative Judge and The Honorable Jan H. Plumadore, Deputy Chief Administrative Judge of the State of New York Unified Court System. Pursuant to the Rules of the Commercial Division, or any subsequent amendments to or replacements of such Rules, all proceedings commenced in Erie County to challenge commercial real property tax assessments for commercial real property with an equalized full valuation in excess of one million dollars shall be assigned in the first instance to the Commercial Division. A copy of the Rules, dated January 1, 2006, are available in the Commercial Division, Supreme Court, Erie County, Part 36.


HON. SHARON S. TOWNSEND
Administrative Judge
Eighth Judicial District

Dated: December 23, 2005

To: Hon. Jonathan Lippman, Chief Administrative Judge
Hon. Jan H. Plumadore, Deputy Chief Administrative Judge
Hon. Eugene F. Pigott, Jr., Presiding Justice, Appellate Division, 4th Department
Hon. Eugene M. Fahey, J.S.C., Presiding Justice of the Commercial Division
Jeremiah J. McCarthy, Esq., President, Bar Association of Erie County
Andrew Isenberg, Esq.
Christine Nestor, Deputy Chief Clerk
Mehrl King, Commissioner of Jurors
Nora Whalen
Katherine S. Bifaro, Executive Director, Bar Association of Erie County
Buffalo Law Journal
The Daily Record

Guidelines for Assignment of Commercial Tax Certiorari Proceedings to
Commercial Division

1. COMMERCIAL TAX CERTIORARI ASSIGNMENT PROCEDURES

Proceedings commenced to challenge commercial real property tax assessments, as defined herein, shall be assigned in the first instance to the Commercial Division by the Clerk of the Supreme Court, upon the filing of an RJI together with an Attorney's Affirmation. The Affirmation shall be served upon all parties, and shall set forth the name of the proceeding, the index number and a statement indicating the basis for Commercial Division adjudication. A form Affirmation shall be supplied by the Office of Court Administration.

2. CRITERIA FOR ASSIGNMENT OF COMMERCIAL TAX CERTIORARI PROCEEDINGS TO COMMERCIAL DIVISION

1. The Commercial Division shall hear and determine tax certiorari proceedings in which the principal claim(s) involve commercial real property with an equalized full valuation in excess of one million dollars.

2. The Commercial Division shall hear and determine proceedings where claims relating to two or more parcels are joined in a single petition pursuant RPTL § 706(2) and the total equalized full valuation of all parcels is equal to or more than one million dollars.

3. The Commercial Division shall also hear and determine proceedings involving real property assessed in accordance with subdivision one of RPL § 339-y, commenced by a board of managers, acting as agent of one or more condominium unit owners pursuant to subdivision four of such section, provided the total equalized full valuation of all parcels included in the petition is equal to or more than one million dollars.

4. The term "commercial real property" shall include improved or unimproved business, commercial and industrial real property, residential cooperative, condominium and rental property, special franchises and utilities. The Commercial Division may also hear and determine proceedings involving the exemption of improved or unimproved public or private real property under article 4 of the RPTL.

5. The Commercial Division shall not hear proceedings relating to one, two or three family owner-occupied residential structures or unimproved property which is eligible for small claims assessment review pursuant to title one-A of article 7 of the RPTL.