New York City Department of Finance

Notice of Adoption of Final Rules

Pursuant to the authority vested in the New York City Department of Finance ("DOF") by sections 164-b(b), 1043(a), 1504, and 1512 of the New York City Charter ("Charter") and section 11-206 of the New York City Administrative Code, DOF hereby adopts rules related to the taxpayer-initiated request for review process and the clerical error administrative review process. These rule amendments reorganize and consolidate the ways that taxpayers may challenge the assessment and taxation of their property. These rules will go into effect on January 5, 2025, pursuant to section 1043(f)(1)(d) of the Charter, but will not apply to applications to correct clerical errors or requests for review submitted prior to the effective date of this rule.

Statement of Basis and Purpose

The New York City Department of Finance ("DOF") is adopting the following rule change pursuant to its authority as set forth in Charter §§ 1043(a), 1504, and 1512 as well as New York City Administrative Code § 11-206. A proposed version of these rules was published in the City Record on October 22, 2024. *See* City Record at 5320-23 (Oct. 22, 2024). A hearing for public comment was held on November 22, 2024. DOF received a range of written and oral comments. As indicated below, DOF is making some changes to these rules based on comments it received, and DOF is grateful for the contributions of those who submitted comments.

DOF has determined that some comments did not necessitate changes to the rule. For instance, some comments disagreed with the allocation of attorney resources within various city agencies and the tax landscape following the COVID pandemic; these issues are not within the scope of this rulemaking process. Other comments suggested that this rule is inconsistent with the mission of DOF, unduly prioritizing efficiency over ensuring accuracy and transparency in taxation, or that it was motivated by a desire to increase City revenue. DOF has not made changes to the rule in response to these comments because these arguments are without merit, and in any event, this rule framework, as revised in this adoption, provides taxpayers with adequate opportunities to correct the taxation and assessment of their property while preventing forum-shopping, ensuring finality in review of property tax matters, and establishing DOF policies that reflect the intent of the applicable authorizing statutes. As described in greater detail below, this rule clarifies existing law defining the boundaries of certain administrative procedures that supplement the primary forums for the challenge of assessment, which are the New York City Tax Commission and judicial proceedings via Article 7 of the Real Property Tax Law.

Comments that DOF received in relation to this rule predominantly focus on the clerical error review ("CER") component of this rule. Many commenters expressed concern that the opportunity to challenge valuation matters would be limited; however, many errors and valuation related matters may also be resolved by way of the mechanism for taxpayer-initiated requests for review ("RFR") in the applicable tax year, rather than through the more limited CER process. The two mechanisms are modified in different respects by this rule, given their respective functions.

Taxpayer-Initiated Requests for Review
Sections one and two of this rule modify the process for RFRs of tentative assessments of real property. Charter § 1512 allows DOF to adjust the tentative assessments of parcels during certain time periods and requires that DOF provide notice to taxpayers when such an adjustment takes place. *See* Charter § 164-b(b) (containing certain class-specific exceptions). Since 1992, DOF has provided a process for taxpayer-initiated RFRs in the RCNY. *See* City Record, at 2145 (Dec. 13, 1991). In practice, the RFR process provides a taxpayer with a reasonable opportunity to request that DOF fix ministerial errors or errors related to the valuation of a property for a limited time period.

DOF is adopting amendments to the RFR process in 19 RCNY § 37-06 because some provisions in the section are out of date. This rule amends the text of subdivisions (a), (b), and (c) of this section to revise RFR submission timeframes that are no longer consistent with actual practice. Several commenters during the public comment period expressed frustration with the timeframe in which RFRs are resolved; DOF acknowledges these concerns, but as they are operational in nature, they are outside the scope of this rulemaking process. This rule also amends subdivision (d) to remove references to procedures that are out of step with how RFRs are customarily submitted. This rule brings these provisions up to date by clarifying the RFR submission timelines and procedures.

This rule repeals 19 RCNY § 37-06(e) in order to eliminate a reference to a process by which taxpayers requesting RFRs may attend conferences with DOF. Such conferences are rarely conducted in practice. This rule replaces that provision with new provisions 19 RCNY § 37-06(e), (e-1), and (e-2), which would clarify that the RFR process may be used to correct an error in the valuation of a property, a clerical error that is purely ministerial in nature, or an error of description of a property that is purely ministerial in nature or the result of a mistaken conclusion of fact. Such errors based on a mistaken conclusion of fact could be remedied through the RFR process if they can be unambiguously resolved by reference to documents or information created by a City agency as of the taxable status date of the applicable tax year. This provision was amended in the final rule from its initial proposal to be consistent with the scope of the CER process.

This rule provides that DOF will not correct any error resulting from a discretionary act or an act based in whole or in part on an individual's judgment, other than errors with respect to valuation of a property. This rule provides that DOF will not correct any error resulting from an interpretation of law, regulation or policy. This rule change eliminates outmoded regulatory provisions and clarifies that only certain requests relating to valuation, ministerial errors and errors of description may be addressed through the RFR process. Any other dispute should be addressed through the Tax Commission and the RPTL Article 7 tax certiorari process.

Correction of Certain Errors and Errors of Description Affecting an Assessment or Tax on Real Property Pursuant to 19 RCNY Ch. 53
Sections three, four, five, and six of this rule amend Chapter 53 of Title 19 of the RCNY ("Chapter 53"), which implements the power of the Commissioner of Finance to correct certain errors affecting an assessment or tax on real property pursuant to Administrative Code § 11-206 through the CER process. As described below, this rule revises the categories of errors that can be corrected pursuant to Chapter 53.

The rule amends 19 RCNY § 53-01(a)(3) to adjust the time-period in which an application pursuant to Chapter 53 may be filed. Since 2016, this provision has allowed DOF to correct

eligible errors that occurred within six years prior to the date of application. *See* City Record at 2343-44 (June 16, 2016). To address the unintended consequences of this lengthy time period to file an application and balance the needs of DOF and taxpayers, this rule allows DOF to correct eligible errors that occurred during the tax year in which an application for correction of errors was submitted or during the two directly preceding tax years. This time limitation contains some exceptions: applications could still be submitted pursuant to Chapter 53 outside of this time period where DOF determines that correcting such error would not unduly prejudice DOF and where extenuating circumstances apply.

Some commenters expressed concern regarding the modification of this time-period, worrying that such modification would prevent the correction of “expensive errors.” Other commenters suggested that the provisions of this rule amounted to attempts to deprive taxpayers of the opportunity to challenge their taxes by denying proper claims. DOF has determined that changes are not necessary in response to these comments. This rule is intended to address certain misuses of the lengthy time period to file an application. For instance, some property owners, including real estate developers and other institutional owners, have used the six-year period as an opportunity to relitigate assessment and taxation matters after receiving an unsatisfactory outcome in a prior tax certiorari action, or to challenge the same issue in multiple forums. The modification of the review time period will help prevent such re-litigation of assessment and taxation matters in different forums and ensure clarity and finality in assessment and taxation while still preserving taxpayers’ ability to properly correct and challenge their taxes.

Other commenters suggested that errors are often identified years after they occur and that only the City Council or the State Legislature would have the authority to amend the time period in which a CER may be filed. One commenter offered an alternative: expanding the scope of extenuating circumstances to include those in which an error's discovery was delayed despite the taxpayer's due diligence. DOF has determined that no changes are needed to the period in which a CER filing may be made in this final rule and that the rule sufficiently provides for an extended period for review in certain circumstances in which a filer demonstrates extenuating circumstances. However, to address some issues raised in these comments, this final rule expands the range of catastrophic events that could trigger a finding of extenuating circumstances from those provided in the proposed rule.

One commenter expressed reservation regarding the drafting of the proposed version of this rule, suggesting that it could be read to imply that a taxpayer could file a CER to resolve an error in the current year or previous tax years, but not during both periods. DOF has clarified this provision in the final version of the rule.

In keeping with the goals of ensuring finality in taxation matters and preventing the re-litigation of the same issues in multiple forums, this rule adds new paragraphs 19 RCNY § 53-01(a)(5) and (6). 19 RCNY § 53-01(a)(5)(i) provides that DOF will not correct any error for which an owner or other qualified filer entered into a settlement with the City. To ensure compliance, 19 RCNY § 53-01(a)(5)(ii) requires the submission of sworn statements and accompanying documentation with each application.

The proposed version of this rule that was published on October 22, 2024, would have prevented DOF from correcting any error for which an owner or other qualified filer submitted an application for correction of an assessment with the Tax Commission or sought judicial intervention and received a decision on the merits. A number of commenters, including the Real Estate Tax Review Bar Association, raised objections to this proposal, including regarding its

potential to limit taxpayers' avenues to resolve disputes. Some comments also expressed uncertainty regarding whether a Tax Commission decision on the merits would have, under the proposed rule, affected the eligibility of a taxpayer to make CER filings in other tax years. While DOF believes that the rule as originally proposed was consistent with State Law and the State Constitution, based on the concerns presented in the comments, DOF has amended this final rule to prohibit only the filing of CER applications for those years encompassed by a settlement agreement, including any tax years for which any petitions are required to be discontinued as part of such agreement. This approach does not modify existing jurisprudence.

The proposed version of this rule would have amended 19 RCNY § 53-01(a)(1) to prohibit owners and other qualified filers from challenging the taxation or assessment for tax years in which they neither owned the property nor had the status of an other qualified filer. Some comments noted that past clerical errors —such as previous errors that affect the base year for recurring tax benefits or that effect the application of assessed value caps— have continuous effects in future tax years after a change in ownership or control. After considering these comments, DOF revised this provision to allow an owner or other qualified filer to challenge taxation or assessment for tax years in which they were not an owner or other qualified filer with respect to the property, subject to all the other limitations set forth in this final rule.

While this final rule relaxes the limitation on certain taxation or assessment challenges that was included in the proposed version of this rule, as described above, the final rule also adds a new subparagraph (iii) to 19 RCNY § 53-01(a)(5) that features a more circumscribed version of this limitation. This new subparagraph provides that, if an owner or other qualified filer files a request for administrative review under Administrative Code § 11-206 for a tax year for which such filer neither owned such property nor held the status as an other qualified filer, the Department of Finance may correct such assessment or taxes but shall not issue a remission or tax credit to such filer for such year, except to the extent such owner or other qualified filer can provide documentation demonstrating that such owner or other qualified filer paid such taxes by reimbursing a former owner for their tax payments in the tax year in which acquisition occurred. The purpose of this amendment is to prevent recovery of refunds or remissions under Chapter 53 by people who did not suffer any injury as a result of an eligible clerical error or error of description in the tax year at issue, consistent with existing legal principles. Chapter 53 is intended to provide relief under limited circumstances where DOF determines correction of a clerical error or error of description is appropriate to remedy an injury to the person who suffered the injury. In recent years, Chapter 53 has been misapplied to seek benefits for past errors that new owners discover after taking possession of a property.

This section also defines the term "other qualified filer" to mean any person who is entitled to file an application with the Tax Commission.

Lastly, this rule repeals and replaces 19 RCNY § 53-02. Similar to the amendments to the RFR process, discussed above, this section clarifies that clerical errors and errors in description only include errors that are purely ministerial in nature or that are the result of a mistaken conclusion of fact that can be unambiguously resolved by reference to documents or information created by a City agency as of the taxable status date of the applicable tax year. This rule also provides that DOF will not correct any error resulting from a discretionary act, an act based in whole or in part on an individual's judgment, or an interpretation of law, regulation, or policy.

Several commenters expressed that the categories of clerical errors previously included in Chapter 53 should be retained because these categories are sufficiently clear. DOF determined that changes to the proposed rule were not necessary in response to these comments, as

recent court decisions regarding the applicability and scope of Chapter 53 have demonstrated the need to further clarify these categories. Similar comments expressed confusion over the meaning of the terms “ministerial” and “discretionary act.” DOF intends to publish guidance to assist practitioners in interpreting these terms, if necessary. Other comments asserted that these categories of errors create a gap in avenues to challenge tax matters. However, the RFR and CER provisions only apply in limited and narrow circumstances and were never intended to serve as all-purpose review mechanisms. By contrast, the New York City Tax Commission is the designated body to hear administrative complaints arising from annual assessments, and any judicial proceeding thereafter is required to be commenced pursuant to Article 7 of the Real Property Tax Law. The State Legislature has designated the Article 7 proceeding as the exclusive remedy for assessments which are excessive, unequal, misclassified, or unlawful. Still, other comments suggested that this rule is inconsistent with the holding of *Better World Real Est. Grp. v. New York City Dep't of Fin.*, 122 A.D.3d 27 (2nd Dep’t 2014). DOF does not agree with this characterization, as this rule reflects the holdings of recent decisions by appellate courts interpreting Administrative Code § 11-206. *See, e.g., 3061-63 Third Ave. LLC v. Soliman*, 223 A.D.3d 548 (1st Dep’t 2024); *174th TIC Owner,* 231 A.D.3d at 401; *Bajraktari Realty Corp. v. Soliman*, 223 A.D.3d 556 (1st Dep’t 2024); *Downing St LLC v. Soliman*, 222 A.D.3d 584 (1st Dep’t 2023); *9 Orchard Partners, LLC v. New York City Dep't of Fin.*, 204 A.D.3d 527 (1st Dep’t 2022).

The originally-proposed version of this rule would have only allowed for the correction of errors of description that were purely ministerial or that could be unambiguously resolved by reference to documents or information included on the DOF website. Commenters suggested that DOF expand the pool of documents that DOF may consider in evaluating a CER filing, noting that, in some instances, external documents from the Department of Buildings are necessary to resolve a CER filing. In light of these comments, DOF has expanded 19 RCNY § 53-02(b)(2), by allowing consideration of documents or information created by other City agencies in addition to DOF as of the taxable status date in the applicable tax year. This amendment in the final rule does not expand the nature of the errors of description that may be resolved via CER.

These rule changes clarify the scope of Chapter 53 so that they are consistent with the intent of the Legislature in enacting what has now become Administrative Code § 11-206, which authorizes DOF to correct clerical errors and errors of description. Administrative Code § 11-206 derives from state legislation enacted in 1915 amending the Greater New York Charter (the “1897 Charter”), the predecessor to the modern City Charter. Ch. 592 of the Laws of 1915. Prior to the 1915 amendments, the City’s taxing authority was the Department of Taxes and Assessment (“DTA”), which was headed by a five-member Board of Taxes and Assessments (“BTA”). 1897 Charter §§ 884, 885. DTA conducted annual assessments for all taxable property. *Id.* §§ 887, 889. The City’s assessment rolls were “open for examination and correction” for about four months each year. *Id.* § 892. Claims arising from final assessment rolls were to be challenged via tax certiorari under certain circumstances. *Id.* § 906.

Directly prior to its amendment in 1915, the 1897 Charter permitted the BTA to make certain reductions to final assessments within one year after finalization of the assessment rolls. *Id.* § 897. In 1915, the Legislature amended this section to allow the BTA and the City Comptroller to correct an assessment more than one year after finalization of the assessment rolls in case of “a clerical error, or to an error of description of any parcel of real estate.” Ch. 592 of the Laws of 1915. This new authority to correct clerical errors and errors of description remained separate from the BTA’s pre-existing authority to correct “excessive or erroneous” assessments. In 1968, the power to correct excessive or erroneous assessments was transferred to the Tax Commission, which became an independent agency. *See* Local Law 10 of 1968. The narrower

authority to correct clerical errors and errors of description ultimately was codified in Administrative Code § 11-206, with such authority conferred on DOF. *See* Chapter 929 of the Laws of 1937; Chapter 100 of the Laws of 1963; Local Law 10 of 1968; Chapter 907 of the Laws of 1985.

Evidence from the legislative histories of these provisions suggests that in 1915, the Legislature, when enacting the precursor to today's Administrative Code § 11-206, intended "clerical error" and "error of description" to refer only to ministerial mistakes. By 1915, the Court of Appeals had repeatedly construed "clerical error" to refer to a narrow class of inadvertent ministerial mistakes – errors of mere form, as opposed to errors of substance, merits, judgment, or law. *See, e.g., Hermance v. Board of Supervisors*, 71 N.Y. 481, 486 (1877); *People ex rel. Nostrand v. Wilson*, 119 N.Y. 515, 518 (1890). Cases in which courts in the early 20th century referred to something as an "error of description" similarly involved inadvertent ministerial errors of form. *See, e.g., People v. Prillen*, 173 N.Y. 67, 69 (1903); *Finch v. Unity Fee Co.*, 211 A.D. 430, 434 (1st Dep't 1925). The 1915 Legislature understood these terms in the context of these appellate decisions. The Legislature's tight pairing of "clerical error" with "error of description" suggests that both terms are intended to refer to partially overlapping classes of ministerial mistakes. Moreover, the Legislature specifically contrasted these types of errors with "excessive" or "erroneous" assessments, which involve substantive errors of judgment or law. The changes made in this rule amendment more clearly align Chapter 53 with the intent of the State Laws authorizing the correction of clerical error and errors of description by clarifying that the Chapter 53 process only applies to correcting inadvertent clerical errors. Substantive challenges to property tax assessments on the merits continue to be heard by the Tax Commission or through a tax certiorari proceeding.

One commenter asserts that this rule is *ultra vires*, suggesting that the scope of Chapter 53 should be coextensive with the clerical error policies applicable outside of New York City, which are codified in Title 3 of Article 5 of the Real Property Tax Law. However, Title 3 specifically excludes the City from its applicability. *See* Real Property Tax Law § 559(3).

Effective Date Provisions
DOF added unconsolidated section seven of this final rule in response to commenters' concerns that the rule would be applied retroactively to previously filed RFRs and CERs. This was never DOF's intention. Accordingly, pursuant to a finding that there is a substantial need for the earlier implementation authorized by Charter § 1043(f)(1)(d), this rule takes effect on January 5, 2025, but will not apply to any RFR or CER filed prior to such date.

In sum, these rule changes clarify the types of challenges that can be brought under the RFR or Chapter 53 process. Previous rule provisions have provided insufficient clarity on these distinctions, resulting in confusion and challenges to real property assessments in improper forums.

<u>New material is underlined.</u>
[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section one. Subdivisions (a), (b), (c) and (d) of section 37-06 of Title 19 of the Rules of the City of New York are amended to read as follows:

(a) During the period beginning January 15th and ending [February 28th] March 15th of each year, an owner of real property defined as class one property pursuant to § 1802 of the Real Property Tax Law may apply to the Department for review of the tentative assessed valuation or taxation of such property for the succeeding fiscal year. [Any change made by the Department for the succeeding fiscal year must be made no later than March 15th of each year.]

(b) During the period beginning January 15th and ending [February 13th] March 1st of each year, an owner of real property defined as class two property pursuant to § 1802 of the Real Property Tax Law may apply to the Department for review of the tentative assessed valuation or taxation of such property for the succeeding fiscal year. [Any change made by the Department for the succeeding fiscal year must be made no later than March 1st of each year.]

(c) During the period beginning January 15th and ending April 1st of each year, an owner of non-residential real property may apply to the Department for review of the tentative assessed valuation or taxation of such property for the succeeding fiscal year. [Any change made by the Department for the succeeding fiscal year must be made no later than May 10th of each year.]

(d) (1) Any request for review [of assessed valuation] pursuant to this section must be filed with the [Equalization Unit of the] Property Division and received by the [Equalization Unit] Property Division on or before the applicable deadline provided in this section.

(2) [Except as hereinafter provided, any] Any such request must be made [in duplicate] on a form and in a manner prescribed by the Commissioner and include [an original and a photocopy of:

(i) a sworn Tax Commission application for correction of tentative assessed valuation, whether or not such application was filed with the Tax Commission. If such application was filed with the Tax Commission, a photocopy will be accepted. See 19 RCNY § 37-01 for a description of the effect on a property owner's rights relating to the application for correction with the Tax Commission;

(ii) a Tax Commission affidavit of sale (TC 230), when the application is based on a sale;

(iii) rent rolls, when the application is for commercial property; and

(iv)] any [other] information the Department deems necessary for the evaluation of the request.

[(3) Notwithstanding the foregoing provisions of this subdivision (d), in cases relating to real property defined as class one property, a letter and a photocopy thereof from the owner of the property or the owner's representative will be accepted in lieu of a request meeting the requirements of the foregoing provisions if such letter includes the following:

(i) the borough, block and lot of the property; and

(ii) an estimation of the market value of the property, including the basis for the estimation.]

§ 2. Subdivision (e) of section 37-06 of Title 19 of the Rules of the City of New York, relating to conferences for changes in valuation initiated by property owners, is REPEALED and two new subdivisions (e) and (e-1) are added to read as follows:

(e) The Property Division may correct any tentative assessed valuation or taxation of real property that is the result of a review conducted pursuant to this section if such assessed valuation or taxation is erroneous due to:

(1) an error in the valuation of such property;

(2) a clerical error that is purely ministerial in nature; or

(3) an error of description of a property that is:

(i) purely ministerial in nature; or

(ii) the result of a mistaken conclusion of fact that can be unambiguously resolved by reference to documents or information created by a City agency as of the taxable status date of the applicable tax year.

(e-1) For the purposes of paragraphs (2) and (3) of subdivision (e) of this section, the Property Division will not correct any error that is a result of a discretionary act or an act based in whole or in part on an individual's judgment.

(e-2) For the purposes of subdivision (e) of this section, the Property Division will not correct any error that is a result of an interpretation of law, regulation or policy.

§ 3. Paragraph (1) of subdivision (a) of section 53-01 of Title 19 of the Rules of the City of New York is amended to read as follows:

(1) Any request for administrative review concerning assessment or tax of real property pursuant to this section must be filed by the owner of the property or any [person who would be entitled to file a complaint pursuant to Section 163 of the Charter] other qualified filer with the Property Division of the Department of Finance. Any such request must be made on an application form and in a manner prescribed by the Commissioner of Finance and include all required information.

§ 4. Paragraph (3) of subdivision (a) of section 53-01 of Title 19 of the Rules of the City of New York is amended to read as follows:

(3) The Department of Finance will only correct eligible errors that occurred [within six years of the date of submission of] during the tax year in which an application for correction of errors was submitted, the two directly preceding tax years, or any combination of such tax years, except that the Department of Finance may correct eligible errors that occurred in an earlier tax year where the Department of Finance determines that correcting such error would not unduly prejudice the Department of Finance and one or more of the following extenuating circumstances apply:

(A) the owner of the property or other qualified filer, as applicable, submits documentation from a physician that demonstrates that illness or a medical condition prevented such owner or other qualified filer from submitting a request at an earlier date; or

(B) the owner of the property or other qualified filer, as applicable, submits documentation demonstrating that a natural disaster or any other event that is the basis for a declaration of an emergency or major disaster by the President of the United States, a disaster emergency by the Governor of the State of New York, or a local state of emergency by the Mayor of the City of New York prevented such owner or other qualified filer from submitting a request at an earlier date.

§ 5. Subdivision (a) of section 53-01 of Title 19 of the Rules of the City of New York is amended by adding new paragraphs (5) and (6) to read as follows:

(5) (i) Notwithstanding any other provision of this chapter, for any property, the Department of Finance will not correct any error for a tax year included in a settlement agreement, whether or not any petitions relating to such tax year were required to be discontinued as part of such agreement, and regardless of whether such settlement was (A)

entered pursuant to an offer described in 21 RCNY § 4-01(a)(4); or (B) otherwise entered with the City regarding the assessment or taxation of such property.

(ii) In each application submitted pursuant to this chapter, the property owner or other eligible filer shall submit a sworn statement:

(A) indicating whether such filer filed an application for correction of an assessment with the Tax Commission or sought judicial review and, if so, whether such filer accepted an offer as described in clause (A) of subparagraph (i) of this paragraph or otherwise entered into a settlement agreement, as applicable; and

(B) stating whether such property owner or other qualified filer included all relevant documentation associated with such application submitted to the Tax Commission or in connection with such judicial review.

(iii) If an owner or other qualified filer files a request for administrative review for a tax year for which such filer neither owned such property nor held the status as an other qualified filer, the Department of Finance may correct such assessment or taxes, but shall not issue a remission or tax credit to such filer for such year, except to the extent such owner or other qualified filer demonstrates that such owner or other qualified filer paid such taxes by reimbursing a former owner for their tax payments in the tax year in which acquisition occurred.

(6) For the purposes of this section, the term “other qualified filer” means any person, other than the owner of a property, who would be entitled to file an application pursuant to Section 163 of the Charter.

§ 6. Section 53-02 of title 19 of the rules of the city of New York, relating to clerical errors and errors in description, is REPEALED, and a new section 53-02 is added to read as follows:

§ 53-02. Clerical Errors and Errors in Description.

(a) The Commissioner of Finance may correct any assessment or tax that is erroneous due to a clerical error that is purely ministerial in nature.

(b) The Commissioner of Finance may correct any assessment or tax that is erroneous due to an error of description of a property that is:

(1) purely ministerial in nature; or

(2) the result of a mistaken conclusion of fact that can be unambiguously resolved by reference to documents or information created by a City agency as of the taxable status date of the applicable tax year.

(c) Notwithstanding any other provision of this chapter, a clerical error or error of description does not include:

(1) any discretionary act or an act based in whole or in part on an individual’s judgment; or

(2) any interpretation of law, regulation or policy.

§ 7. This rule takes effect on January 5, 2025, provided that the provisions of this rule shall not apply to any request for review filed pursuant to 19 RCNY Ch. 37 or request for administrative review filed pursuant to 19 RCNY Ch. 53 prior to such date.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

I hereby find and represent to the Mayor that there is a substantial need for the implementation no later than January 5, 2025, of a New York City Department of Department of Finance rule to revise the rules relating to the Request for Review process ("RFR") and Clerical Error Review ("CER") processes. This rule amendment to Chapters 37 and 53 of Title 19 of the Rules of the City of New York is necessary to provide sufficient clarity on the mechanisms by which taxpayers may challenge matters relating to taxation and assessment. Existing rule provisions have resulted in confusion, challenges to real property assessments in improper forums, and, in some instances, opportunism. At and before the public hearing for this rule on November 22, 2024, the Department received extensive written and oral comments. The Department carefully considered each comment and has addressed the public's concerns in its final rule and accompanying Statement of Basis of Purpose. Pursuant to Charter Section 1507, with limited exception, the taxable status of real property in the City is fixed for the succeeding fiscal year on January 5 each year, and pursuant to Charter Section 1510, the books of the annual record of the assessed valuation of real estate must be opened to the public for inspection by January 15 each year. It is critical that this rule be in place before the annual inspection period to ensure a fair and efficient assessment and taxation process. Therefore, I find pursuant to Charter Section 1043(f)(1)(d), that there is a substantial need for this rule's earlier implementation.

_____/s/_____
Preston Niblack, Commissioner
New York City Department of Finance

APPROVED:

_____/s/_____
Eric Adams
Mayor