



BOUSQUET HOLSTEIN PLLC

Alert

Real Estate Practice Group

Is New York State Pushing NYC Condo and Co-op Owners off the Condo/Co-op Cliff?

Syracuse, New York

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When the New York State legislative session ended on June 22nd, the legislature had not re-enacted a real property tax abatement valued at about \$1,200 per year for the average NYC condo and co-op owner. That tax break expired on June 30, 2012, and, despite lawmakers' efforts to extend it, without being called into session before the end of the year, they will be unable to act, leaving their constituent owners dangling in limbo.

Although the NYC Department of Finance is continuing to apply a phantom credit in the belief that the State legislature will pass a law to retroactively extend the credit, fiscal constraints and political exigencies may kill the deal, leaving these owners with significant retroactive property tax debt, and increased future property tax liability. The legislature could be called into special session before the end of the year by a 2/3 majority of both houses or by the governor, but neither option appears likely at present. The next regular legislative session will begin in early January.

Consequently, owners of condo and co-op units need to budget for and to be prepared to pay additional taxes or increased co-op maintenance fees, in case the worst happens and the credit disappears.

For more information regarding these and other issues important to property owners, please contact

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• **Gilbert M. Hoffman** is counsel to the firm in the areas of transactional real estate, title law, title insurance, real estate development, financing, leasing, title and boundary disputes, easements and oil and gas leases. He previously served as Vice President and spent 27 years at Chicago Title Insurance working on commercial and industrial real property and title matters, including wind and nuclear power facilities, cogeneration plants, pipelines and transmission lines. He has extensive experience working with industry and land owners solving problems in complex title matters. With the introduction of High Volume Hydraulic Fracturing technology to New York State, he has devoted considerable time to developing title and underwriting standards for the title insurance and banking industries, and finding ways to integrate mortgage and owner's title insurance products to minimize the real property impacts of oil and gas leasing and to facilitate real property transactions.

• **Anthony J. D'Elia** practices primarily in the areas of commercial and residential real estate, land use planning and zoning, leasing, and financing where he represents banks, financial institutions, borrowers and investors. Anthony has experience qualifying and closing federal and state government guaranteed loans and other low interest to no-interest governmental loans and grants to non-profit or non-profit controlled entities, Federal and State tax credit project structuring, business formation, and litigation. Anthony has represented major commercial project developers through project structuring and financial planning through land use planning, financing, and asset acquisition. Anthony has represented financial institutions in several complex lending transactions, as well as the representation of clients through land and business asset acquisition, entity creation, financing, and land use zoning applications. In addition, he has successfully represented clients in and through complex state and federal commercial and business litigation.

• **The Bousquet Holstein PLLC Real Estate Practice Group** provides developers, both residential and commercial, with services that include contract negotiations, obtaining land use municipal approvals, and handling the sale, lease and operation of the developed project. We collaborate with the Environmental, Land Use, and Zoning Practice Group to ensure the performance of due-diligence and compliance with the State Environmental Quality Review Act (SEQRA). We have structured, prepared and promoted many real estate syndications in and around Central New York over the last forty years. Typically retained in the early stages of a deal, we assist in necessary analysis, negotiation, and preparation of preferred developer agreements. We often recommend specific entities and deal structures to maximize incentives that are available through government programs including:

- Excelsior Zones
- Industrial Development Agencies
- Federal and State grant applications
- Brownfield Cleanup Program
- Federally insured and direct lending financing programs
- Tax-exempt bond financing
- Other incentive programs at the State and Federal level

After financing decisions have been made, our attorneys continue to assist clients through the final stages of closing and provide consultation of ongoing operations such as management contracts, franchise agreements, liquor licenses, and employment agreements. Our Real Estate Practice Group draws upon the sophisticated expertise of our other practice groups in order to provide comprehensive service to our clients. We are creative and entrepreneurial in both the development and advancement of real estate objectives. Our Real Estate Practice Group addresses the following areas:

- Purchase and sale of commercial properties
- Financing
- Commercial mortgage financing
- Consolidation
- Environmental
- Condemnation
- Boundary and Title Disputes
- Project development
- Leasing
- Restructuring
- Property-related litigation
- Tax Challenges
- Title Insurance