

## Assessor's Office Report for the month of January 2012

There were five sales in the month of January, all, but one were valid usable sales.

Since the change in chairmanship, there has been some minor changes in responsibilities. Donna has been given more data entry jobs. Marilyn is still doing the sales/transfers and exemptions except for agricultural. Marilyn has given Ann the administrative jobs.

The office has been very busy with processing the exemptions and re-evaluating the land schedule tables. We have found that the prices on replacement costs of homes and improvements has decreased, but land sales have continued to increase. We are confident that the assessments will not increase dramatically, but as in the past, landowners will be hit the hardest.

Proposal for the board to consider: Due to the rough conditions of the maintained roads, private roads, and driveways, the assessors request the use of the Town of Caton highway's pickup truck for field reviews.

There is a piece of legislation pending that I feel you should know about.

### **Overview of the Executive Budget Proposal to Remove STAR Exemptions from Property Owners that have State Tax Liabilities**

The Governor's 2012-13 Executive Budget Proposal includes a provision that would deny STAR exemption benefits for property owners that have outstanding state tax liabilities. If included in the final budget:

1. The Department of Taxation and Finance (DTF) will identify parcels that benefit from either the Basic or Enhanced STAR exemptions and for which the owners have outstanding tax liabilities.
2. DTF will send notices to the property owners of identified parcels informing them of the pending loss of the STAR benefit.
3. The notice will inform the property owner that their STAR exemption will be removed prior to the issuing of their next school tax bill and that the assessor will be instructed not to grant the STAR exemption to their properties on the next year's and subsequent years' assessment rolls, unless the property owner does one of the following:
  - a. Resolves the outstanding tax liabilities with DTF within a specified time period
  - b. Enters into a satisfactory payment arrangement with DTF
  - c. Satisfies DTF that a mistake has been made and no such taxes are outstanding

**The notice will instruct property owners to contact DTF - not their assessor - if they have any questions.**

Ann Balch  
Assessor Chairperson

## Assessor's Office Report for the month of February 2012

There were eleven sales in the month of February, out of which, two were valid usable sales.

Please read the notice on back concerning the Examination of Assessment Inventory.

I worked 76.5 hours in the month of February, of which 68.5 were spent in the office. Marilyn was on vacation from February 8<sup>th</sup> through March 5<sup>th</sup>.

There is no update on the Corning Natural Gas compressor station.

Upon reviewing the exemptions done prior to February 8<sup>th</sup>, I have found dozens of mistakes. This has led to several hours of extra work to make things right. People are confused, frustrated, and angry.

- Out of 83 Senior Aged exemptions completed, 66 had the income calculated wrong, affecting 24 people. 21 now receive the exemption that wouldn't have gotten it. 3 had the exemption taken away.
- Veterans exemptions:
  - 13 people had double exemptions (ten in prior year and three this year)
  - 1 person had triple exemptions
  - 8 people who applied in previous years never got the exemption
  - 5 people had the wrong application filled out
  - 3 people had the wrong exemption code
  - 19 people had no application on file
  - 9 people had the wrong disability % (they only received  $\frac{1}{2}$  of their entitled exemption)
- Disability exemptions:
  - One person had the exemption last year that made over the maximum amount allowed.
- Agricultural Buildings exemptions:
  - One removal due to buildings not used as agricultural
  - Wrong amounts on exemptions
    - The exemption must equal the amount of the assessment; ex: \$70,000 exemption on a \$46,667 assessed building

Building permits: Verified with the Office of Real Property Services that all property is to be assessed on March 1<sup>st</sup>. In the past, if building permits were issued after July 1<sup>st</sup>, they would not be placed on the roll until the following year. We have 37 outstanding building permits that we must review and place on the roll prior to April 1<sup>st</sup>.

Ann Balch  
Assessor Chairperson

**NOTICE CONCERNING THE**  
**EXAMINATION OF ASSESSMENT INVENTORY**  
**AND VALUATION DATA**

(Pursuant to Section 501 of the Real Property Tax Law)

Notice is hereby given that assessment inventory and valuation data is available for examination and review. This data is the information which will be used to establish the assessment of each parcel which will appear on the Tentative Assessment Roll of the Town of Caton which will be filed on or before May 1<sup>st</sup>, 2012. The information may be reviewed, by appointment, in the Assessor's Office at 11161 Hendy Hollow Road, Corning, NY 14830 on March 27, 2012 between the hours of 2 and 6 and on March 29, 2012 between the hours of 4 and 8. An appointment to review the assessment information may be made by telephoning the assessor at 607-524-6303 ext #2.

Dated 1st day of March 2012.

Ann M. Balch  
Assessor Chairperson

## Assessor's Office Report for the month of March 2012

There were no sales in the month of March.

Roll Section #1 changes (all properties except for tax exempt, utilizes, special franchises)

291 parcels increased for a total of \$4,021,200

330 parcels decreased for a total of \$2,760,800

Dates for roll inspections:

May 5<sup>th</sup> 9-1pm

May 8<sup>th</sup> 4-8 pm

May 10<sup>th</sup> 4-8 pm

May 15<sup>th</sup> 2-6pm

As of today May 9<sup>th</sup>, we have seen \_\_\_ people, with \_\_\_ changes, and received \_\_\_ applications for the Board of Assessment Review.

I worked 64 hours in the month of March, of which 60.75 were spent in the office.

There is no update on the Corning Natural Gas compressor station.

Update on veteran's exemption mistakes:

- 3 people have had a veterans exemption that were never veterans
- 5 more people had the wrong exemption code

Update on building permits: All building permits were entered

Tentative Roll results:

2011 Roll	\$160,148,828	
2012 Changes	-\$8,932,376	(-\$10,868,076 gas wells, utilities, CNG)
2012 Tentative Roll	\$151,216,452	
Exemptions	-\$33,694,600	
2012 Taxable	\$117,521,852	

Ann Balch

Assessor Chairperson

## Assessor's Office Report for the month of April 2012

There were no sales in the month of April.

Roll Section #1 changes (all properties except for tax exempt, utilizes, special franchises)

291 parcels increased for a total of \$4,021,200

330 parcels decreased for a total of \$2,760,800

Dates for roll inspections:

May 5<sup>th</sup> 9-1pm

May 8<sup>th</sup> 4-8 pm

May 10<sup>th</sup> 4-8 pm

May 15<sup>th</sup> 2-6pm

I worked 43 hours in the month of April, of which 35 were spent in the office.

There is no update on the Corning Natural Gas compressor station.

Tentative Roll results updated:

2011 Roll	\$160,148,828	
2012 Changes	-\$8,953,436	(-\$10,891,136 gas wells, utilities, CNG)
2012 Tentative Roll	\$151,195,392	
Exemptions	-\$6,384,419	
2012 Taxable	\$144,810,973	

After two months of problems with the networking in the assessor's office, I feel that the current outside computer support services company needs to be replaced. I am requesting that the town board look for another company on an annual contract.

Ann Balch

Assessor Chairperson

## Assessor's Office Report for the month of May 2012

There were seven sales in the month of May, of which two are usable.

I worked 70 hours in the month of May, of which 63.5 were spent in the office.

There is no update on the Corning Natural Gas compressor station.

The assessors had 74 appointments during the four days set for "sitting with the roll" plus one additional day for overflow. 28 people signed stipulation agreements on 36 parcels. 19 people with 25 parcels went on to the Board of Assessment Review.

28 people came to the Board of Assessment Review with complaints on 38 parcels. 29 parcels were lowered, of which 21 were the assessor's recommendations. The assessors would like to know why the BAR lowered these eight parcels:

- 373.00-01-068.000
- 373.00-01-047.000
- 373.00-01-016.120
- 391.00-01-006.100
- 373.00-01-027.000
- 371.00-03-055.112
- 371.00-03-048.000
- 373.00-01-003.110

Roll Section #1 changes (all properties except for tax exempt, utilizes, special franchises)

6 new parcels for a total of 1247

281 parcels increased for a total of \$3,532,100

346 parcels decreased for a total of \$2,884,100

Net increase of \$648,000

Final Roll:

2011 Roll	\$160,148,828
2012 Changes	-\$10,197,336 (-\$10,889,136 gas wells, utilities, CNG)
2012 Final Roll	\$149,951,492
Exemptions	-\$6,585,496
2012 Taxable	\$143,365,996

Assessors summer hours will be Tuesdays only from 2pm to 6pm.

Ann Balch  
Assessor Chairperson

## Assessor's Office Report for the month of June 2012

There were seven sales in the month of May, of which two are usable.

I worked 70 hours in the month of May, of which 63.5 were spent in the office.

There is no update on the Corning Natural Gas compressor station.

The assessors had 74 appointments during the four days set for "sitting with the roll" plus one additional day for overflow. 28 people signed stipulation agreements on 36 parcels. 19 people with 25 parcels went on to the Board of Assessment Review.

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Assessors summer hours will be Tuesdays only from 2pm to 6pm.

Ann Balch  
Assessor Chairperson

## Assessor's Office Report for the month of July 2012

There were 19 sales in the month of July, of which six are usable.

I worked 16 hours in the month of July, of which 12 were spent in the office.

There is no update on the Corning Natural Gas compressor station.

Marilyn & Ann will be attending four valuation classes scheduled for August 14<sup>th</sup>, August 29<sup>th</sup>, September 12<sup>th</sup>, and September 26<sup>th</sup> in Bath. Office will be closed August 14<sup>th</sup>.

Assessors summer hours will be Tuesdays only from 2pm to 6pm.

Ann Balch  
Assessor Chairperson



## Assessor's Office Report for the month of August 2012

There was one sale in the month of August, which was usable.

I worked 23.25 hours in the month of August, of which 12.25 were spent in the office.

Marilyn & Ann attended two of the four ORPTS valuation classes held in Bath. Two more sessions to attend in the month of September.

Frank Muccini has filed a small claims assessment review. His hearing will be on September 20<sup>th</sup>.

Assessors' hours are back to the normal hours of Tuesdays and Thursdays from 2pm to 6pm.

Update on the Corning Natural Gas compressor station:

- Received a memorandum from ORPTS Valuation Services Bureau in reference to the 2013 Compressor Stations Advisories (copy is attached).
- The Fourth Department of the Appellate Division made a decision that compressor station equipment, including any measuring and regulating equipment at the compressor station site are exempt from taxation if it is owned by an Article 9A Corporation and is located within the Fourth Department, which Steuben County is one. (This opinion of counsel was made on December 4, 1990 and is attached)
- Corning Natural Gas is now an Article 9A Corporation.
- Ted Williams at Harris Beach Attorneys has been notified. In an email from Ted Williams, he stated that the following:
  - I am familiar with this opinion of counsel. First, the Volume 9 No. 42 opinion does not say that. I would like to speak with the counsel who provided this decision. There was a Court of Appeals decision which is binding on the 4<sup>th</sup> Department.
  - David Shanley's, Western Region Representative for Utilities of ORPTS, info was given to Ted Williams.
- Kent Woloson, Town Attorney, was also notified. His response was: Thank you – I will follow up with Ted also- we have both been attempting to discuss both actions with Atty. George Welch, but no luck so-far.

Ann Balch  
Assessor Chairperson

## Real property, definition of (cogeneration unit) - Real Property Tax Law, §102(12)(f):

A cogeneration unit, which is power generating apparatus, is taxable real property, even if it is movable.

At issue is the taxable status of a "cogeneration unit", which consists of a gas fired turbine engine and a generator. The apparatus uses natural gas to produce electricity.

All real property in New York State is subject to taxation unless specifically exempted by law (Real Property Tax Law [RPTL], §300). "Real property" is defined for this purpose in subdivision 12 of section 102 of the RPTL Paragraph (f) of that subdivision provides that "real property" includes:

(f) Boilers, ventilating apparatus, elevators, plumbing, heating, lighting and power generating apparatus, shafting other than counter-shafting and equipment for the distribution of heat, light, power, gases and liquids, but shall not include movable machinery or equipment consisting of structures or erections to the operation of which machinery is essential, owned by a corporation taxable under article nine-a of the tax law, used for trade or manufacture and not essential for the support of the building, structure or super-structure, and removable without material injury thereto....

Accordingly, the paragraph provides both a definition of "real property" and also an exemption from real property taxation.

The exemption part of section 102(12)(f) applies to certain "movable machinery or equipment" of corporations liable for a franchise tax pursuant to Article 9-A of the Tax Law (a "9-A corporation"). It is relevant here because, in order to be exempt, the cogeneration unit must satisfy the standards for exemption set forth in the latter half of section 102(12)(f).

Note, however, that if the cogeneration unit falls within the *definition* half of section 102(12)(f), it is not exempt. This is the rule of law set down in a decision of the Court of Appeals in 1965 (*City of Lackawanna v. SBEA*, 16 N.Y.2d 222, 212 N.E.2d 42, 264 N.Y.S.2d 528; *see also*, 6 Op.Counsel SBEA No. 121). Nevertheless, it has been suggested that the decision in *Honeoye Storage Corp. v. Board of Assessors*, 77 A.D.2d 468, 433 N.Y.S.2d 943 (4th Dept. 1980), *mot. lv. app. den.*, 53 N.Y.2d 601, 438 N.Y.S. 2d 1026 (1981),<sup>1</sup> supports the proposition that, if equipment is used solely for use in a corporation's business and not for general energy consumption to make the plant facility functional, it is not encompassed by the definition of real property in section 102(12)(f). Although we agree that the *Honeoye* case might be so construed, we disagree that it has such broad implications, and we respectfully suggest that the Appellate Division in that case clearly misinterpreted the decision of the Court of Appeals in the *City of Lackawanna* case.

In *Lackawanna*, one of the many issues before the Court was whether movable pipes, pumps and electrical and steam properties used in the processing business should be exempt as 9-A movable equipment. The argument advanced by the petitioners was that only power generating equipment common to all manufacturing facilities (*i.e.*, necessary "to make the plant facility functional" in the words of the property owner) was taxable real property under section 102(12)(f). The Court of Appeals summarily rejected this argument: "[o]n the record before us, the items \*\*\* appear to fall within the taxable category of 'equipment for the distribution of heat, light, power, gases and liquids'" (16 N.Y.2d at 231, 264 N.Y.S.2d at 533). In short, the Court did not read the section 102(12)(f) definition as distinguishing between power generating apparatus, *unique* to a particular manufacturing process, and such facilities *common* to all manufacturing operations.

Since neither the Legislature nor the Court of Appeals<sup>2</sup> has acted to contradict the opinion in the *City of Lackawanna* case, that opinion remains binding precedent. The Appellate Division, in affirming the trial court decision in *Honeoye Storage*, seems to agree with this assertion since it favorably cites the *Lackawanna* case for all of its holdings. *However*, we must respectfully disagree with one of these citations.

In interpreting paragraph (f), the Appellate Division in *Honeoye Storage* appears to have once again drawn a distinction between building-related items and process-related items:

This portion of the statute included within the definition of real property "*equipment for the distribution of heat, light, power, gases and liquids*" *encompasses only such facilities as would be common to all manufacturing structures*, such as the usual plumbing, sewage and heating facilities, and not those present due to the particular manufacturing process involved [citing] (*Matter of City of Lackawanna v. State Board of Equalization and Assessment of State of N.Y.*, 21 A.D.2d 318, 250 N.Y.S.2d 369, *mod. on other grounds*, 16 N.Y.2d 222, 264 N.Y.S.2d 528, 221 N.E.2d 42). Inclusion in the definition of real property should depend on whether the equipment is so inextricably attached to real property

as to become a part thereof, not on the title of the business it is used in (*Honeoye Storage Corp. v. Board of Assessors*, 433 N.Y.S.2d at 945-46 [emphasis added]).

The explanatory phrase, "modified] on other grounds", following the citation, "250 N.Y.S.2d 369", in the quoted portion of this Appellate Division opinion was a key element in the Court's decision. However, the Appellate Division decision in the *City of Lackawanna* case was not modified "on other grounds" as suggested above. Rather, it was on this very point - *i.e.*, the purported distinction between "distribution equipment" common to all manufacturing structures and that unique to the particular manufacturing process-that the Court of Appeals modified the Third Department's opinion (see, 16 N.Y.2d at 231, 264 N.Y.S.2d at 535).

Therefore, it is our conclusion that the *Honeoye Storage* case is limited to its particular set of facts and offers little precedential value given the Court of Appeals' statements in *City of Lackawanna*.

Accordingly, in our opinion, if the cogeneration unit is "power generating apparatus", it is taxable real property, even if movable.

December 4, 1990

<sup>1</sup>Note that denial of leave to appeal is not equivalent to an affirmance and has no precedential value (*Matter of Marchant v. Mead-Morrison Manufacturing Co.*, 252 N.Y. 284, 169 N.E. 386 (1929); *Dobbs Ferry Union Free School District v. Dobbs Ferry United Teachers*, 51 N.Y.2d 861, 414 N.E.2d 398, 433 N.Y.S.2d 1018 (1980); *Brownstone Publishers, Inc. v. N.Y.C. Department of Finance*, 75 N.Y.2d 791, 551 N.E.2d 585, 552 N.Y.S.2d 92 (1990)).

<sup>2</sup>"We do not interpret the Court of Appeals' denial of the motion for leave to appeal in *Honeoye* as reversal of its earlier opinion in *City of Lackawanna*. Indeed, in our opinion, *Honeoye Storage* may be distinguishable from *City of Lackawanna*. In the papers which accompanied the motion for leave to appeal in *Honeoye Storage*, the brief for the company made the following point (p.3):

Appellant cites two cases to show the conflict it alleges \*\*\*. There is no conflict.

In *Matter of City of Lackawanna vs. Board of Equalization and Assessment*, 16 N.Y.2d 222, the pumps and piping were for gas consumed at the Bethlehem Steel plant for heating purposes, operation of blast furnaces and generation of electric power. *The gas for which respondent's machines and equipment are used is not consumed at respondent's plant* (emphasis added).

It may be that the Court's denial of the motion for leave to appeal in *Honeoye Storage* was premised upon the distinction between gas consumed by the 9-A corporation and gas stored for eventual distribution by other corporations. However, this is speculation and we are obligated to advise that assessors are bound by the pronouncements of the Court of Appeals until that Court reverses itself, or the State Legislature, subject to Constitutional limitations, enacts a statutory amendment to overrule the Court's opinion.

## Assessor's Office Report for the month of September 2012

There were twelve sales in the month of September, which four were usable.

I worked 53.5 hours in the month of September, of which 36.25 were spent in the office.

Besides the town board meeting, I attended one Town General Budget meeting and the Steuben County Assessor's Association.

Marilyn & Ann attended two of the four ORPTS valuation classes held in Bath.

Frank Muccini's small claims assessment review was held on September 20<sup>th</sup>. The hearing officer's decision was not to hear the case because it was disqualified due to property not used exclusively for residential purposes.

Ann Balch  
Assessor Chairperson

## Assessor's Office Report for the month of October 2012

There were five sales in the month of October, which two were usable.

I worked 47 hours in the month of October, of which 39.25 were spent in the office. The other 7.75 hours were attending the town board meeting, three town general budget meetings and the Steuben County Assessor's Association.

Due to computer problems, October was not a very productive month. Also, the office was closed on October 30<sup>th</sup> due to Hurricane Sandy.

Laptop and camera was purchased.

Annual road trip will be done on Tuesdays in November and December starting on November 13<sup>th</sup>. On Tuesday s, the office will only be opened between **3 and 4pm**.

Ann Balch  
Assessor Chairperson

End of report with no attachments.

# Assessor's Office Report for the months of November & December 2012

There were 16 sales in the months of November and December, which six were usable.

I worked 57.5 hours in the month of November, of which 32 were spent in the office, 20 for training, and the other 5.5 hours were attending the town board meeting, the town general budget meeting and the Steuben County Assessor's Association.

In December, I worked 24 hours of which 13 were spent in the office, 7.5 for training, and 3.5 hours for the Steuben County Assessor's Association.

New Ricoh copier was purchased and was installed on December 6<sup>th</sup>.

On November 13, 27, and December 4 assessors Ann Balch and Marilyn Backus performed property inspections on the following roads:

- Barto Hill
- Birch Creek
- Brown Hollow
- Browntown
- Buckwheat Hollow
- Corduroy
- Cram Cross
- Crooker Hill
- East Hill
- East Hill View
- Fish Pond
- Ginnan Road (between Whiskey Creek and Lightfoot Lane)
- Gridley
- Hamilton
- Hillview
- Hunt Lane
- John Hill
- Kelly Hill
- Lightfoot Lane
- Marsh
- McCarrick
- Palmer
- Red School
- Riff Road (between McCarrick and Wolcott)
- Riley Hill (seasonal limited use section)
- Seyter
- Stateline
- Sticklertown
- Stone Ridge
- Tobey Town
- Wheeler
- Widger Hill
- Williams Road
- Wolcott

Exemption renewals were mailed between November 8<sup>th</sup> and November 15<sup>th</sup>.

## Training:

- Marilyn attended the GIS class, Agricultural Valuation, and Appraising in a Difficult Market
- Ann attended the Mass Evaluation class and Appraising in a Difficult Market
- Donna attended Appraising in a Difficult Market

Office will be closed on December 20<sup>th</sup>, 25<sup>th</sup>, and 27<sup>th</sup> and January 1<sup>st</sup>.

Ann Balch

Assessor Chairperson

End of report with no attachments.