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Testimony of George Sweeting
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To the New York City Council Finance and Community Development Committees
On Hurricane Sandy's Effect on Property Tax Bills for Storm-Damaged Homes

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Good morning Chairmen Recchia and Vann and members of the committees. My name is George Sweeting. I am deputy director of the New York City Independent Budget Office. I am joined by Ana Champeny, whose responsibilities include being IBO's property tax analyst. Thank you for the invitation to appear before you at this hearing on the Department of Finance's response to Hurricane Sandy.

Governments were challenged in many ways by the devastation wrought by Hurricane Sandy. Making sure the city's property tax system takes proper account of changes in the value of storm-damaged properties may not be in the same category as emergency response, stabilizing infrastructure, and assisting those without homes or heat, but it is part of the storm recovery that government needs to get right. Our analysis suggests that the task of reviewing the assessments for all properties that were potentially damaged could be enormous. IBO found many properties in areas that were flooded had their market values increase on the 2014 tentative assessment roll, although without knowing the extent of damage suffered by individual properties we can offer no conclusions as to whether these increases are reasonable.

As you know, the New York City real property tax is extremely complex. It is difficult for taxpayers to understand how their tax is computed and it can be a challenge for the Department of Finance to administer. Why we have such a complex system is a subject best left for another day, but some of that complexity effects what the city could and could not change about individuals' property taxes after the storm. We should also keep in mind that the city's property tax law is established in state law which governs almost all aspects of the system. There is little discretion available to the city absent state legislation. While not insurmountable, the need to deal with Albany can complicate and delay efforts to offer relief.

It is important to bear in mind the difference between market value and assessed value, both in terms of what they measure and how they are set. Market value is the price an independent party would pay for a property, and serves as the starting point for determining a property owner's tax bill. Because most properties don't sell each year, the property tax system relies on estimates of market value. The Department of Finance has responsibility for generating estimated market values for the roughly 1 million parcels in the city. For most houses in the city, those estimated market values are generated by computer models that take into account recent sales prices for similar properties.

In January of this year, the finance department released the tentative assessment roll for 2014. After a period for reviews and appeals, a final assessment roll will be released in late May that will be used for property tax bills in the upcoming fiscal year. The tentative roll should in theory represent the estimated market value of properties two months after Sandy struck. However, it is clear that the finance department was not able to systematically incorporate updates to its standard computer model-generated market values to reflect possible damage from the storm. The finance department is encouraging property owners to come forward and request adjustments. According to the department's Web site, the deadline for requesting a review is now March 15. Property owners also always have the option of appealing to the Tax Commission, which has its own filing deadlines.

Reviewing all potentially affected properties and updating the values when appropriate is a large task. IBO estimates that approximately 72,000 properties were in areas where the Federal Emergency Management Agency (FEMA) recorded flooding. (We are treating each condominium as a single property rather than counting each condo unit individually. We have also excluded all tax exempt property.) This estimate was done by overlaying FEMA's map of flooded areas on top of the city's map of tax lots. Note that the FEMA flooding area is not coterminous with the city's evacuation areas. There are areas that flooded that were outside the evacuation zones and there are areas of the evacuation zones that did not suffer flooding. Unfortunately, although we can identify properties in areas where flooding occurred, we cannot estimate what damage, if any, those properties suffered.

Overall, the market value for properties in the flooded areas had roughly the same 0.8 percent median increase from the 2013 roll to the 2014 roll as did those outside the flood zone. Drilling down to specific geographic areas, we found interesting differences. In the two community districts in Staten Island that were most affected by the storm, there were widespread reductions in market values on the new assessment roll among all types of residential property, regardless of whether properties were in areas that flooded or not, although the declines were significantly larger for the flooded properties.

In much of southern Brooklyn and Queens, the pattern of increases and decreases was spottier. We found pockets of increases in flood areas. What we can't tell is whether properties in these areas were damaged and might need a reduction in market value, or whether they had escaped relatively unscathed.

Looking at the almost 29,000 one-family houses in flood areas from across the city, they were almost evenly split, with 14,500 getting lower market values—the median reduction was $19,000 or 4.3 percent—while 14,400 had higher market values—the median increase was $17,000 or 4.0 percent. For most other property types in flooded areas, there were more properties with increases than decreases. The exceptions were so-called bungalow colonies such as Breezy Point in Queens and Edgewater in the Bronx. All of these properties had lower market values on the new roll.

While the Department of Finance has considerable discretion in estimating market values, the determination of the assessed value and the billable taxable assessment—which is the amount used to actually compute the tax bill—is driven by formulas laid out in the state property tax law. In New York City, assessed values are a percentage of the market value, 45 percent for most apartment and commercial property and at most 6 percent in the case of Class 1 homes (single- to three family houses). To protect property owners from rapid appreciation in market values, New York law provides for phasing in the impact of market value changes on assessed values over time. For Class 1 homes, the assessed value increases are capped at no more than 6 percent annually or 20 percent over five years, regardless of how fast market values are increasing.

The cap on assessment increases in Class 1 means that the ratio of assessed value to market value is often below the target ratio of 6 percent, which is to the benefit of home owners. What can be confusing to property owners is what happens when the market values are flat or falling. In that case the assessed value can still go up, subject to the limits on annual increases, as long as the new assessed value is no more than 6 percent of the new market value. To the property owner whose market value declined due to storm-related damage, this looks like an unfair tax increase, but it is an artifact of the protection from rapid appreciation that was provided in earlier years. For the purposes of today's hearing, the key point is that the Department of Finance has no discretion in setting the assessed value once the market values have been determined. In at least some cases reported in the press, it appears that taxpayers' complaints about higher assessments on the tentative roll in Sandy-impacted areas are the result of prior market value increases just now being reflected in the assessed value, rather than an increase in market value following Hurricane Sandy.

Finally, property taxes are assessed based on the value of a property at a specific point in time. This is how it has long been done not just in New York but in much of the country. For New York, the key date is in January. So property tax bills sent this fiscal year are based on estimated market values and assessed values from January 5, 2012. Conditions that alter the value of your property after the taxable status date are not generally reflected in your tax bill until the next fiscal year. Thus, property damaged or destroyed by the storm in October 2012 is still taxed for this fiscal year based on the value as it stood in January 2012. Any adjustment to the market value would not be reflected until next fiscal year.

For fiscal year 2013 tax bills, barring an amendment to the state law, the city cannot alter the amount of tax due by calculating new assessments based on post-Sandy market values. However, the city has taken steps to try to provide relief to some property owners. The Council and the Mayor moved to allow property owners most severely affected by the storm (those with properties that received red tags from the Department of Buildings) to delay their January 1 tax payments without incurring interest. The city has also asked the state Legislature to establish a rebate that would in effect refund some of this year's property tax paid by owners of the most severely damaged property. That request is still pending in Albany.

There are a number of steps that the finance department could take to improve the transparency of their review process. It is not clear how the department is estimating the dollar value of the damage to individual properties. Will current replacement costs be used or will the reduction in market value reflect depreciation of the property prior to the storm? Will the department account for the upward trend in market values in most parts of the city when estimating damage? Oversight of the finance department's work could also be helped if it would release a list of block and lots that were processed as red tag properties and by conforming to recent practice by posting “change by notice” listings on its Web site which would allow analysis of the scale of changes being made as reviews are completed.

There are also some procedural questions that have not been answered. Will there be a threshold on the amount of damage before granting review? Does the department have the resources to review potentially tens of thousands of properties—we don’t know how many there will be—while carrying out its other functions? Finally, are there other steps that could be taken to ensure that more property owners with valid claims for reductions in market value have the opportunity to do so? Although reports are sketchy, it does not appear that large numbers have taken advantage of the program so far.

Again, thank you for the opportunity to testify and I would be happy to try to answer any questions.