new york state society of
NYSSCPA
certified public accountants
530 fifth avenue, new york, ny 10036-5101
www.nysscpa.org

September 14, 2004

Dara Ottley-Brown
Assistant Commissioner Property Division
New York City Department of Finance
12th Floor
66 John Street
New York, New York 10038

By email: ottley-brownd@finance.nyc.gov

In re: Questions regarding Form RPIE-2003

Dear Ms. Ottley-Brown:

The New York State Society of Certified Public Accountants, the oldest state accounting association, representing approximately 30,000 CPAs, periodically has brought to the attention of the Department of Finance concerns expressed by members of its technical committees.

The NYSSCPA Real Estate Committee has prepared the attached questions about Form RPIE-2003. If you would like additional discussion with the committee, please contact Abraham Haspel, chair of the Technical/ Publications Subcommittee, at (212) 736-4222 or Ernie Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

John J. Kearney
President

Attachment

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NEW YORK STATE SOCIETY OF

CERTIFIED PUBLIC ACCOUNTANTS

Questions on New York City Form RPIE-2003

September 14, 2004

Principal Drafter

Abraham Haspel

New York State Society of Certified Public Accountants
Real Estate Committee
Questions about New York City Form RPIE-2003
September 14, 2004

Our objective is guidance about the proper preparation of the RPIE-2003. Anthony Arcuri of your division suggested that we contact you in the hope that you or one of your associates would be able to provide us with the necessary guidance.

Common Area Improvements:

The instructions to the RPIE-2003 exclude references to amortization of common area improvements and major repairs. Prior year's instructions to the RPIE specifically allowed these costs. 2004 instructions to the TC 201 allow inclusion of amortized costs. Why has this item of expense been omitted from the current year's instructions?

Because the TC201 Income and Expense statement can be included in part 2 of the RPIE, amortization of common area improvements may very well be included in many TC 201 filings. The 2004 instructions and glossary to the TC 201 specifically require that amortized common area improvements be classified under miscellaneous expense and that a schedule be attached to the TC 201 describing the improvement, its acquisition date, original cost, and amortization expense for the current and prior periods. This type of disclosure allows the users of the income and expense statement to evaluate the propriety of the amortized common area improvement or major repair expense.

The inclusion of amortized common area improvements as an operating expense is justified because replacement of components of the subject building and major repairs are necessary for the continued operation of that building. Real estate appraisers normally provide for this by deducting a replacement reserve in arriving at net operating income. The instructions to both the TC 201 and the RPIE-2003, however, exclude the use of reserves for replacements.

Related Party Transactions:

Why are related party expenses excluded from Part 2 of the RPIE form? Form TC 201-2004 allows related party transactions as long as they are disclosed. Related party transactions are included in most financial statements. Generally accepted accounting principles require disclosure of these transactions in sufficient detail for the users of the financial statement to draw their own conclusions whether these transactions reflect market conditions. Many property owners have management affiliates that charge market rates for performing property management services. The total exclusion of related party transactions can unfairly understate the legitimate cost of operating a building. The instructions to the RPIE-2003 form Section J, line 11 require disclosure of owner occupied space without regard to recorded income. Obviously, the Department of Finance evaluates this information in determining stabilized income for appraisal purposes. We recommend that the same approach be used in reporting and evaluating related party expenses.

Amortized Leasing and Tenant Improvement Costs (Line 33 Section L-Expenses):

Can this category include lease acquisition costs other than leasing commissions and tenant improvements? For example, are costs such as the fees paid to attorneys for drafting and negotiating leases, lease-buyout costs to accommodate an identified prospective tenant, moving costs etc. included in this category? The instructions to the TC 201 currently allow these costs to be included in this category. The TC 201 instructions allow lease buyout costs that were incurred to accommodate a future unidentified tenant to be deferred and amortized once a replacement has occupied the space.

Lease Termination Income:

If money paid by a tenant to be released from a lease (if material) were classified in lines 4-8 on Part II Section J on the owners filing, income would be distorted because such payments do not represent normal recurring rental revenue. Vacancies occurring as a result of a premature termination of a lease are adequately addressed through vacancy information provided in Section G. If you apply market rent to vacant space and add that to income shown on Section J, lines 4-8, the income produced will be overstated. To avoid this problem, the TC 201 instructions allow the classification of lease termination income on a separate line and identified as such. Can lease termination income be reported on the RPIE form line 13 Section J to avoid this distortion?