

Tax win is early Christmas gift for nursing home owners

Nursing and adult home owners who derive revenue from Medicaid reimbursements may benefit from a precedent-setting decision on how these facilities are valued for tax assessment purposes.

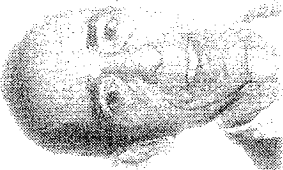
Most properties are valued based on market rent. In the case recently decided after trial in New York State Supreme Court, the petitioner, Underbrucker Realty Corp., and The Bronx Center For Rehabilitation and Health Care, maintained that facilities that receive their real estate income primarily through Medicaid reimbursements should be valued according to a different standard than other commercial

properties in New York City. Each year, up to 50,000 property owners in New York City seek to appeal the city's assessment of their properties in order to reduce their tax burden. Most cases are resolved administratively. In almost all the cases, the city offers small or no reductions.

However, following a five day trial, the Honorable Howard R. Silver, decided against the City of New York and reduced the valuation of the Bronx Center For Rehabilitation and Health Care in each year from 1999 through 2007, providing the nursing home owner with a \$400,000 tax refund.

Tax certiorari attorney for the nursing home, Roy M. Sparber, said, "By reducing the assessment, the court agreed that because the property derives its real estate income primarily from Medicaid capital cost reimbursements, it cannot be compared with a hotel, motel or other property whose mission is to make a profit.

"With a heart, the court viewed the nursing home with ninety percent Medicaid patients as a property which should be valued by using a lower rent



ROY M. SPARBER in valuing an adult home by the Appellate Division."

While the City has the right to appeal the decision, Sparber said, "We believe Judge Silver made a fair and reasoned decision in our case.

"Any appeal though can cut both ways. The court could choose to increase the reduction of our assessment.

Attorney, Marshall Kaplan, former president of the Tax Commission, as special counsel, worked with Sparber in defeating his former employer, The City of New York.

Amy Rozenfeld, senior counsel from the tax division in the City Council law department, said the city plans to appeal the decision. "We respectfully disagree with the Court's conclusion — which splits the difference between the City's current assessments and the petitioners' requested assessments. The petitioners were unable to meet their burden of proving that the City's assessments are erroneous because the petitioners' valuation method is incorrect."

regulated formula."

Sparber explained how, to test the reasonableness of his approach, he researched income and expenses of comparable apartment buildings in the Bronx. "We found that approach worked as well and would also have resulted in a reduction of the tax assessment for the nursing home. This approach has recently been approved in valuing an adult home by the Appellate Division."