

**Nassau County
Office of the Comptroller
Field Audit**



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Comptroller

COLE•LAYER•TRUMBLE COMPANY:
COUNTYWIDE REASSESSMENT PROJECT

FA03-03

MAY 13, 2003

NASSAU COUNTY
OFFICE OF THE COMPTROLLER

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Executive Summary

Background:

In 1997, Nassau County residents believing themselves disadvantaged by the county's system of residential property assessment filed a lawsuit in New York State Supreme Court. *Coleman v. O'Shea*, No. 30380-1997 (N.Y. Sup. Ct., Nassau County) (Winslow, J.). The plaintiffs challenged Nassau County's residential property assessments as being racially discriminatory in violation of Titles VI and VIII of the Federal Civil Rights Act of 1964, as amended. The plaintiffs sought a reassessment of Class I residential properties based on fair market value, in accordance with the New York State Real Property Tax Law ("RPTL") Section 305(2). In March 2000, the Court entered a judgment approving a settlement between the parties in which the county stipulated it would reassess Class I residential properties for use on the 2003 tax roll. To implement the settlement, the county entered into a \$34 million contract with Cole, Layer, Trumble Co. ("CLT"). Although not required by the *Coleman* judgment, the county also contracted with CLT to reassess commercial properties in Nassau County.

In addition to the importance to the county of the residential reassessment, the importance of the commercial property reassessment (including apartments, cooperatives and high rise condominiums) cannot be underestimated. Over the years, Nassau County has been subject to an enormous financial burden because of successful challenges to commercial assessments in certiorari proceedings. Nassau County taxes are only approximately 25% of real estate taxes, but the county must pay school and town tax refunds, as well as county tax refunds, found owing in these proceedings. While the preponderance of certiorari claims have been filed on behalf of residential homeowners, 87% of the monies refunded have gone to commercial property owners. These certiorari claims, combined with inordinate certiorari settlement delays caused by a lack of resources previously provided to the Assessment Review Commission, and the county's guarantee of the tax roll, have caused about \$100 to \$150 million in certiorari judgments against the county each year and debt issuance to pay these judgments of over \$1.6 billion dollars.

CLT, the largest mass appraisal firm in the country, was selected through a bipartisan process to conduct the project. The project includes providing the county with CLT's Integrated Assessment System (IAS), along with the necessary training to enable the county to update its assessments on an annual basis. CLT utilized a number of local appraisers, with an extensive knowledge of the local real estate market, as sub-contractors to ensure that valuations took into account local factors.

On December 20, 2002, the State Supreme Court justice overseeing the project approved the new residential property values. Ten days later the County's Board of Assessors approved the January 2, 2003 property tax assessment roll. Additionally, the New York State Office of Real Property Services (ORPS) had an oversight role in the process.

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The reassessment of all properties was a three-year effort that consisted of the following steps:

- Image Gathering – photographing each property;
- Field Data Verification – visual inspection from the public right of way;
- Database Creation – transfer the Department of Assessment’s data to CLT’s system and update the property inventory;
- Data Inventory Mailers – confirmation of data with property owners;
- Market Modeling – determination of alternative values using comparable sales, replacement cost and the income method (for commercial properties);
- Valuation Determination – comparison of the three valuation estimates by professional appraisers to determine fair market value;
- Notice of Values – property owners notification; and
- Informal Review Meeting – five-month process of meeting with property owners who are dissatisfied with the valuation.

The valuations were determined by CLT using different methodologies for Class I residential properties and for commercial properties, co-ops and condominiums. Residential property values were based upon comparisons of properties to arms-length sales prices of five comparable properties. Multiple regression analysis was used to select the five comparable properties. As a back up to comparable sales, CLT determined the replacement cost of the land and replacement cost of a structure of similar condition, quality and utility.

Commercial properties were valued using the income approach. Under this method, an estimate of the income and expense stream of the property is determined in order to calculate the net income the property would produce for its owner. CLT determined the rate of return that the owner would require and calculated the amount the investor would be willing to pay to achieve the required rate of return. Each property was also valued using the replacement cost method based upon standard industry tables. CLT’s final valuation of virtually all income-producing properties, with the exception of certain special use type properties, such as marinas, were determined using the income method.

The mass appraisal results were statistically tested for accuracy in accordance with the International Association of Assessing Officers (IAAO) standards. The project manager, a consultant hired by the County, performed this testing. Two of the critical tests performed included the calculation of the coefficient of dispersion (COD) and the price related differential (PRD). The results of the statistical testing revealed that reassessment was within the acceptable limits set by the IAAO and ORPS. The results of the statistical tests for class I properties were also subject to the review of the courts.

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Scope and Methodology

The objectives of the audit were primarily to ensure compliance with contractual terms, to ensure that quality control procedures were in place, and to verify that the valuation of properties was based on fair market value.

We reviewed the contract, the Request for Proposals (RFP) and CLT's proposal. Material requirements of the contract and the RFP dated May 2000, were identified and tested for compliance. CLT's manuals, training materials and a variety of reports were reviewed to obtain an understanding of the process. To determine if residential properties were reasonably valued, we tested the application of CLT's comparable sales approach. To test the valuation of commercial properties, we obtained income and expense information, and compared it to the income and expense tables prepared by the contractor. Outside expertise was required to review CLT's valuation of high end and special purpose type commercial properties. Therefore, on behalf of the Comptroller, the County contracted with Powers & Marshall Associates, Inc., (P&M) an outside appraiser, to review the adequacy and relevance of CLT's source material and data relative to commercial properties, and evaluate the methodology and the appropriateness of the valuation techniques used. We relied heavily on the opinions and written reports of P&M for our audit findings relative to the valuation of these properties.

This audit was conducted in accordance with generally accepted auditing standards. These standards require that the audit be planned and performed to obtain reasonable assurance that the audited information is free of material misstatements. An audit includes examining documents and other available evidence that would substantiate the accuracy of the information tested, including all relevant records and contracts. It includes testing for compliance with applicable laws and regulations, and any other auditing procedures necessary to complete the examination. We believe that the audit provides a reasonable basis for the audit findings and recommendations.

Major Findings

Inadequate Review of Commercial Property Valuations

CLT's quality control process appeared deficient. It did not properly document the rationale for, or validity of adjustment factors impacting the valuations, especially with respect to income and expense rates used to determine value. The valuations of commercial properties were based upon income and expense information developed by neighborhood and by type of building structure. However, adjustments of up to 70% were made to income assumptions contained in CLT's valuation models. As part of its review of valuations, P&M asked that we obtain CLT's basis for these adjustments. CLT did not provide any evidence that the justification for these large adjustments were documented. CLT's response, that the adjustments were based on the appraiser's professional judgment, in absence of any documentation, is insufficient to support a conclusion that a proper review was performed. The properties reviewed by P&M included major properties that should have been reviewed by CLT in detail. Valuations

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should not have been performed without justification for the basis of adjustment factors and without adequate review.

The RFP requires that review of valuation changes of greater than 10% resulting from field review of computer generated estimates be documented. However, CLT did not provide justification for making adjustments to bring the computer-generated review into line with the appraiser's estimates.

Valuation Changes

CLT advised us that valuations of ten large commercial properties were reduced as a result of informal hearings. Their valuation reductions were very significant and indicative of inadequate quality control and valuation methodology. We noted major properties, such as the Broadway Mall, which was reduced by 20%, or \$30 million, and Fortunoff's, that was reduced by \$10 million, or 37%, as the result of informal reviews. Sears received a reduction of 39%, while Jackson Terrace and Avalon Towers were reduced by 43% and 38% respectively. These properties should have received close scrutiny when the valuations were being developed; however, CLT's quality control did not detect the overvaluation. Had the property owner not complained, the county could have faced a large certiorari refund to correct the assessment. We have serious concerns about the defensibility of valuations of the other large properties and the consequent financial costs in the event of similar successful challenges.

In the case of Jackson Terrace, a certiorari judgment was issued in January 2001 that resulted in a cost to the county of \$565,000. This judgment was based on year 2000 valuations of \$9,000,000 by the petitioner's appraiser and \$10,145,375 by the county's appraiser. This information was readily available to CLT and should have been considered in its decision before setting a preliminary value of almost \$22 million.

In the Broadway Mall example, CLT initially valued the property at \$146,373,360 despite a tax year 2001/2002 certiorari settlement at the equivalent of \$110,303,525 (time trended) and two appraisals prepared for the settlement that determined a value of about \$117 million. Additionally, CLT was aware that the property, along with additional parcels, sold for \$72,113,500 on July 5, 2001. This sale should have been indicative of the fact that the Mall did not have a value of \$146,373,360. Upon the property owner's complaint, CLT reduced the value by 20% to \$116,182,230

Given the magnitude of the reductions granted by CLT after informal hearings, concerns were raised about the reliability of the valuations in general. Just as there were significant over-assessments, it is possible that there could have been significant under-assessments that were not detected by CLT. However, property owners who believe they were under-assessed would have not been likely to request a hearing with CLT, and these properties may remain under-assessed.

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The reasons for these final valuation changes may not have been properly documented. We were informed that, while notes were kept documenting informal reviews, reasons for changes to values that were not the result of informal reviews might not have been documented. CLT was unable to provide the reason for a \$7 million decrease to a property where no informal review was held. This weakness may impair CLT's ability to comply with the terms of the agreement. Section 17 b of Exhibit E, Addendum to the RFP, requires CLT to cooperate with the county in defense of any lawsuits arising out of valuation disputes.

Residential Comparable Sales

During the course of the audit, we were informed by both individual home owners and other interested parties of their concerns regarding the accuracy of CLT's use of the sales comparison approach for residential properties. Issues raised included the appropriateness of the comparable properties and possible problems with the algorithms used in CLT's models.

CLT carved the county into 163 residential neighborhoods and 93 residential condominium developments. For selection of comparable sales and valuation modeling purposes, they then consolidated these down to only 38 neighborhood models and three condominium models. School district residency is a major consideration in home purchase and valuation in Nassau County. School districts are of varying quality and have different tax rates. High quality school districts and low tax rates increase home values. However, the 38 models used by CLT commingled different school districts. It is likely that the appropriate impact of school district quality was not taken into account. The Project administrator noted, "When neighborhood delineation was being defined, it was obvious that school district boundaries were very important in most areas, but not that important in others. Analysis and local expertise confirmed the same. . . ."

We also found that because of the limited capabilities of the county's geographical information system (GIS), the selection of comparable sales did not take into account the physical distance between properties—a seemingly significant factor.

Commercial Property Owners' Income and Expense Information

CLT did not use a valuable source of income and expense information, the commercial property owners/managers' income and expense statement, to the extent permitted by law. A comprehensive database consisting of actual income and expense information derived from these statements could have been used to further enhance CLT's tables of income and expense information. Additionally, we were unable to assure ourselves that the income and expense information, received from property owners, was properly utilized. Rather than inputting the information into a database for comparison against the computer generated income and expense information, CLT turned over to the information to the subcontractors to use as reference material in their review of valuations.

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In accordance with the Administrative Code, § 6-30.0, property owners/managers are required to complete an income and expense statement, as well as supply a current rent roll. Only 5.5% of these income and expense requests were returned. **There were 15,000 property owners who failed to respond, each of whom were potentially subject to \$500 fines. Civil actions were not pursued against any of them even though the fines represented potential revenue of \$7,500,000.**

We were also unable to assure ourselves that the amount of income and expense information utilized was complete and representative of the universe of commercial or industrial properties. There was no evidence, as required by the RFP, of mutual agreement between the county, CLT and ORPS as to the completeness and representativeness of the income and expense information.

In contrast, New York City relies to a great extent on property owner's income and expense information to calculate their annual revaluations of commercial property. This information is input into a database and used for trending purposes.

Permits and Interior Inspections

CLT was responsible for, and their assessment manuals strongly emphasize the importance of, verifying the physical characteristics of each property. However, the contract did not require CLT to perform any interior inspections even though they could have resulted in more accurate valuations. Public areas were not even inspected for those commercial properties that provide public access. Buildings open to the public include some of the most valuable properties in the county, such as shopping malls and multi-tenant office buildings.

CLT's Data Verification Manual emphasizes the responsibility of data verifiers by making them accountable for obtaining information critical to the valuation. The manual states that, "The role which the Data Verifier plays in the appraisal process is clear. The Data Verifier's importance is equally clear. The Data Verifier is a key to the success of the program. A job poorly verified will more than likely end poorly. . . we cannot expect the output to be any better than the input." CLT then holds data verifiers accountable for verifying information such as interior finish, heating systems, and functional utility of basements that could only be verified through an interior inspection. At a minimum, a limited inspection of commercial properties open to the public would have been beneficial to the Department of Assessment in determining the property's value.

Proper control was not established over building permits. CLT was responsible for reviewing building permits and determining the impact of the construction work performed on the properties' valuation. We were unable to verify that this responsibility was fulfilled, because no comprehensive list of building permits was maintained. CLT and the Department of Assessment failed to establish a formal control mechanism to ensure that all permits were entered into CLT's system and addressed during the revaluation process. A permit numbering system may have sufficed.

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Special Use Type Properties

CLT segregated a number of special use type properties and provided us with valuation information. These property types present difficult valuation problems; however, it appears that CLT took no extraordinary measures to ensure valuation accuracy. We requested P&M to review the valuation information CLT provided.

Shopping Malls

Powers & Marshall concluded that the analysis, opinions and conclusions for the four malls reviewed by them do not appear to be appropriate and reasonable based upon the data presented. Their review comments included concerns that there was no basis for the rentals used, no separation of kiosk and cart rentals (which command very high rents), no recognition of tenant contributions to utilities and taxes and below market vacancy rates. These deficiencies may have led to questionable valuation conclusions.

Golf Courses

CLT has increased the assessed values of private golf courses by an average of 50%. The comptroller's consultant, P&M, reviewed CLT's valuation of golf courses; with particular emphasis on one golf course, including a review of all background data supplied by CLT. P&M opined that the material presented by CLT was not complete, the data was not sufficient and that the analysis, opinions and conclusions reached by CLT were not appropriate or reasonable.

More specifically, the assumptions used by CLT were not validated by anecdotal or statistical data. There was very little differentiation in value between the thirty-three private golf courses. Twenty-seven of the thirty-three golf courses included a construction cost of \$150,000 per hole; however P&M noted that there is no support offered by CLT to indicate that private golf courses have a construction cost value of \$150,000 per hole. CLT uniformly valued all above-grade buildings at \$90 per square foot and all below-grade building area at \$25 per square foot. No differentiation was made for grade of construction, quality of materials or condition of the property. The same 75% depreciation factor was applied to 29 of the 33 clubs.

We also found that CLT's use of the cost method of valuation is not in compliance with a 1994 decision (*The New Country Club of Garden City v. The Board of Assessors and The Board of Assessment Review of the County of Nassau*) (Judge Frank S. Rossetti) that golf courses should be valued using the income method. This methodology may make it difficult for the county to defend the valuations using CLT's supporting documentation.

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Marinas

All marinas were valued using the cost method. P&M reviewed the materials provided by CLT relevant to the appraisal of marinas, specifically focusing on the values of four marinas. P&M concluded that there was insufficient data presented and that the conclusions reached did not appear appropriate and reasonable.

Powers & Marshall noted that the subcontractors presented sales, leases and appraisals of marinas as supporting documentation. These appraisals offered leases and sales as valuation support. Although none of the appraisals use the cost approach, the subcontractors nevertheless concluded that the cost approach is the most reliable approach to value. This is contradictory to their valuations of other income producing properties wherein they have had appraisals made by local appraisers. It would appear that sufficient data could have been derived by CLT from this supporting documentation to appraise each marina, but they did not, for whatever reason.

Movie Theaters

Powers & Marshall reviewed the valuations of a sample of four (out of twenty-two) theaters. They concluded that the material presented by CLT was incomplete, the data was insufficient and that the analysis, opinions and conclusions reached by CLT were not appropriate or reasonable.

P&M reported that the rentals utilized for the sample properties were not justified or supported and that they were below the retail marketplace. They took issue with the use of retail expense rates, which do not relate to movie theater operations or expenses. They also concluded that the use of a rental amount 45% higher for the Levittown Theater than for the Westbury United Artists Theater had no basis, after considering age, condition and location.

CLT obtained inadequate financial information concerning movie theaters. CLT's appraiser wrote "While it may be desirable to analyze movie theaters on a price per screen or on a price per seat basis, this information was not available in the county records and could not be obtained from the property owners." This information was, in fact, readily available and could have been used by CLT to sharpen their valuation estimates. The number of screens per theater could have been obtained by data verifier observation of theater marquees. Theater occupancy limitations are available from the Fire Marshall and could have been used as a proxy for the number of seats.

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Tax Rates

The property tax burden imposed on each commercial property is a key component of the property valuation formula under the income method of valuation. If, hypothetically, two identical properties existed, with all investment factors being equal except the tax rate, the property with the lower tax rate would command a higher fair market value because the owner could demand a higher price and it could still provide the investor the required rate of return. Every property has a discrete tax rate that should be used when the property is valued under the income method.

CLT calculated income method valuations using incomplete tax levies. They did not include special district taxes in their calculation of the tax burdens, and in some cases, did not include county taxes in their calculation of the tax rates. A sample of ten properties was selected from CLT's list of the 200 most valuable properties to test the accuracy of the tax rates. We found that for five of these ten properties, the tax rates were understated by amounts ranging from 29% to 40%. Roosevelt Field Mall and EAB Plaza are two of the most valuable properties in the county. The understatement of the tax rate results in income method valuation calculations 15% higher than they would have been had the correct tax rate been used.

We were informed at a meeting with CLT's subcontractors, Michael Haberman Associates Inc. (MHA) and Smith and Salerno Valuation Services (SVS) and CLT's commercial supervisor, that an incorrect tax rate might not lead to an incorrect valuation. They said that the determinate factor used by the appraisers in reviewing each property was the appraisers' professional judgment. As long as the appraisers agreed that the final value was appropriate, it did not matter that the tax rate was incorrect. However, if the appraisers were not satisfied with the value, they might make a change to a factor other than the tax rate. For example, they might raise or lower rentals, expenses or vacancies until a reasonable value were achieved. This adjustment method, which allows the appraiser to back into the value, appears arbitrary. CLT should not have adjusted values by changing income and expense items to compensate for incorrect tax rates. The tax rate is one of the valuation components that is not judgmental; the correct rates are known, and should have been used. If the actual tax was used, and CLT was dissatisfied with the value outcome, it is apparent that one of the other income or expense components is incorrect.

Outliers

CLT did not document that outliers were subject to adequate quality controls. "Outliers" were defined as properties whose estimated market values differ from the reviewers estimate of value by over 10%. The contractor indicated that various reports were prepared and provided us with one sample report. We requested that CLT explain the criteria used to produce the report, the review process procedures, and an explanation of the final valuation determination. CLT did not respond to this request; therefore, we have no assurance outliers were subject to adequate quality controls.

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Integrity of the Database

We were unable to assure ourselves as to the integrity of the conversion of the Department of Assessment's database to CLT's Integrated Assessment System. CLT did not maintain copies of the edits run and did not produce edit reports requested by us to review the conversion.

The RFP required that specific edits be performed as assurance that the Department of Assessment's database was properly transferred to CLT's system as a starting point for the revaluation project. Edits CLT was required to run, which we intended to review, included inventory editing to assure that all possible edit errors had been resolved, and a sale/subject mismatch, to compare the subject inventory to the sale inventory and display mismatches. The RFP also required the output report to show that all erroneous mismatches were resolved. Copies of these files were required by the RFP to be available to Nassau County prior to final valuation production.

The RFP required that the output reports be turned over to the county. However, although we requested copies of these reports, CLT did not provide them. CLT informed us that, in apparent contravention of the RFP, error reports from these edits were not saved, but were discarded after the exceptions were fixed or were found not to be exceptions.

We also requested a report of changes made to assessment data resulting from CLT's field verification, i.e. construction grade, property size, condition and any other property factors. CLT did not provide this information, replying, "This would require the compilation of a very significant and complex program which is not practical to create." Therefore, we have been unable to assure ourselves these changes were made or were made accurately.

Contaminated Properties

The value of contaminated properties is normally reduced by the estimated cost of remediation, which can be significant. CLT advised us that it obtained no records of contamination and had not considered its impact on value. The failure to recognize the impairment of value from contamination exposes the county to future certiorari refunds when the property owners grieve their assessments.

A quick review of governmental websites conducted by our office indicated that information on contaminated properties is readily available from state and federal sources. A "Superfund Inquiry" from the United States Environmental Protection Agency Website yielded forty-four records of contaminated sites in Nassau County. Further inquiries on the individual sites provide background information, including site location and maps. For example, the Mineola location of Jackson Steel is on the National Priorities List, and is identified by both cross street and area use type. A review of a New York State Department of Environmental Conservation quarterly report, for some cases, provides site information including the status of the remediation plan and amounts encumbered or spent for site cleanup. This information could have been used to obtain

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contamination information that may have enabled CLT to value contaminated properties more accurately.

Nassau County guarantees the tax roll to the school districts and towns. Therefore, when owners of contaminated properties default on their tax payments, the county incurs the tax expense. The Treasurer's Office provided us with a list of contaminated properties for which the county has paid out approximately \$800,000 per year, or \$11 million cumulatively, in tax payments. This expense could be significantly reduced if the assessments of these properties were reduced to properly reflect the impairment of value from contamination. We brought this to the attention of the Department of Assessment prior to the finalization of the tax roll so that valuation changes could be made to stem the losses.

Residential Land Valuations

CLT's revaluation resulted in major increases in the value of residential vacant land. However, they did not inform the Chairman of the Board of Assessors of the issue until September 2002. It was determined that to avoid the excessive assessment, amendments were required to the Real Property Tax Law. Based upon that, the vacant properties without potential for development of between 2,000 and 6,000 square feet were revalued. The delays in recognizing and addressing this problem resulted in undue hardship to the taxpayers.

Waterfront Properties

The media, as well as other parties, raised concerns that CLT had undervalued waterfront properties. After the media attention, CLT reviewed waterfront parcels and increased the value of 575 properties by an average of 18%. CLT could not identify to us which valuations were changed as a result of this review and which were changed for other reasons, such as new construction. An analysis of the middle 80% of properties (460 properties) of the properties on the list revealed that they were increased by a total of \$32.5 million, an average of 12%. Had there not been a public outcry, these properties may have remained under assessed.

Auditee's Response

CLT and the Department of Assessment were provided with copies of this report for their review and comment. Their responses to our findings and recommendations are attached hereto as Appendices 3 and 4. In general, their responses did not address our major findings and recommendations other than to state their disagreement with them. Our comments on their responses are included as Appendix 1.

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Background

Background:

A rational and fair property tax system should assure that each taxpayer pays an equitable share of property taxes. Nassau County is in the midst of implementing a real property reassessment of all residential and commercial property to ensure such a system. A residential reassessment had not been undertaken in the county for more than 60 years. The firm of Cole•Layer•Trumble Company was hired to undertake such a reassessment for the county. On December 20, 2002, the State Supreme Court justice overseeing the project approved the new residential property values. On December 30, 2002, the County of Nassau's Board of Assessors voted, by a three to two margin, to approve the county's new January 2, 2003 property tax assessment roll. This contract cost the county approximately \$34 million.

The County Charter charges the Board of Assessors with the responsibility of assessing all property situated in the county liable for taxation for state, town, school and/or special district purposes. (§602, Nassau County Charter) In 1938, the county adopted a construction cost method for purposes of developing assessment values for land and buildings in Nassau County. Land values were reviewed and increased subsequently, in 1954 and 1964. In 1986, commercial properties, industrial properties, and apartments were revalued.

There are four classes of property in Nassau County, as established by the New York State Legislature in 1981. They are:

- | | |
|-----------|--|
| Class I | Residential homes, two and three family homes, and low-rise condominiums (three stories or less) |
| Class II | Apartments, cooperatives, and high-rise condominiums (four stories or more) |
| Class III | Utility plants |
| Class IV | Commercial property, industrial property, and vacant land |

Nassau County is the assessing unit for all municipalities within its borders. The Cities of Glen Cove and Long Beach and the villages are separate assessing units and can choose to adopt their own values rather than those established by the county. Most county taxing districts, such as the Towns of Hempstead, North Hempstead and Oyster Bay, most school districts, and local authorities such as fire, sewer, and water, use county values. (Some taxing districts, however, do not use county values; for example, the Glen Cove School District uses city assessments.)

In 1997, a complaint against the county was filed in New York State Supreme Court that claimed the county's residential property assessments were racially discriminatory in violation of Title VI and Title VIII of the federal Civil Rights Act of 1964, as amended. *Coleman v. O'Shea*, No. 30380-1997 (N.Y. Sup. Ct., Nassau County) (Winslow, J.). The complainants requested a reassessment of Class I residential properties using fair market value, in accordance with Section 305 (2) of the New York State Real Property Tax Law (RPTL). On March 27, 2000, the Court entered a judgment approving a stipulation in

Background

which Nassau County agreed that it would commence the actions needed to update and modernize the assessment roll for Class I residential properties for use on January 1, 2003. The stipulation did not cover commercial properties.

Nassau County has paid about \$100-\$150 million per year in certiorari refunds on commercial properties. These payments have resulted in debt issuance of over \$1.6 billion dollars, with a backlog, according to the County Attorney's Office, of certiorari refunds of \$312 million remaining to be paid. In order to curtail these commercial losses, the county decided to include Class II and IV properties in the project.

The county launched a search for a qualified vendor, issuing a Request for Proposal (RFP). The Cole•Layer•Trumble Company (CLT) was selected to conduct the project. CLT is the oldest and largest mass appraisal firm and has been assisting governments with appraisal services since 1938. They have completed over 2,500 reassessment projects in the United States and Canada. They have conducted over 300 software installations throughout the United States. Their computer assisted mass appraisal (CAMA) software is known as the Integrated Assessment System (IAS). (CAMA is defined by the International Association of Assessing Officers (IAAO) as "a system of appraising property, usually only certain types of real property, that incorporates computer supported statistical analyses such as multiple regression analysis and adaptive estimation procedure to assist the appraiser in developing value." CLT's CAMA system maintains a database of property characteristics from which their appraised value estimates were developed. The system includes the valuation tables and algorithms to support the three approaches of value CLT used: cost, market/comparable sales, and income. CLT's Integrated Assessment System and the computer hardware to run it are being supplied to the Department of Assessment as part of the project.)

A number of local firms have also lent their expertise to the project. Michael Haberman Associates, Inc., (MHA), R. H. Clark & Associates, and Smith & Salerno Valuation Services, Inc. (SVS) are participating as subcontractors.

A reassessment is defined as a systematic analysis of all assessments, either within an assessing unit or within a class of a special assessing unit. CLT performed a "mass appraisal," which is defined by the Appraisal Standards Board as "The process of valuing a universe of properties as of a given date utilizing standard methodology, employing common data, and allowing for statistical testing." (Uniform Standards of Professional Appraisal Practice). In mass appraisals, computer models are developed which predict property values. As CLT stated in their December 3, 2002 Mass Appraisal Report, the purpose of its work was "...to assure that assessments are at the stated uniform percentage of value as of the valuation date of the assessment roll upon which the assessments appear, as confirmed by statistical testing following mass appraisal industry standards."

Background

Reappraisal Project Steps:

CLT has represented that the following steps comprised the reassessment process for both residential and commercial properties:

- **Image Gathering:** In this initial step image gatherers used digital cameras to take one or more photographs of each home, apartment complex, and commercial building in the county. The electronic photos were transferred to a database and linked to a detailed description of each property.
- **Field Data Verification:** Between January and May 2001, the Department of Assessment's computerized records were converted into a format compatible with CLT's CAMA system. Property record cards were printed for each property using these records. CLT's data verifiers took the record cards into the field for review and updating. Information on the physical characteristics of each commercial and residential property was provided from the Department of Assessment's computerized system. CLT then conducted a verification of data from the public right-of-way. If necessary, further data collection took place with the consent or at the request of the property owner. Not all property owners allowed CLT to enter their property to conduct a verification.
- **Database Creation:** The property record cards reviewed and updated in the field were used as the primary source for the database. The information, once reviewed for completeness and accuracy, was entered into CLT's Integrated Assessment System.
- **Data Inventory Mailers:** Data inventory mailers were printed reports from IAS that included the descriptive data to be used in valuing each property. They were mailed to property owners for review and correction. Each property owner was provided instructions on making corrections and forwarding the data inventory mailer back to CLT for follow-up research and correction.
- **Market Modeling:** CLT used three methods for estimating "fair market value". Residential properties were valued using the comparable sales and cost methods while commercial properties were valued using the income method and the cost method.

A) For residential properties they collected and verified sales prices for roughly a three-year period to use as a base for estimating fair market value for all properties in the county. Sales that were not "arms-length", or were non-representative, were identified and excluded. Mathematical models of market activity were created and tested to establish their effectiveness for estimating the value of similar unsold properties. In the "comp sales" or "direct market

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comparison method” of estimating market value, five recent sales of similar properties were considered in CLT’s estimation process.

B) For commercial properties, CLT used an income approach by obtaining income and expense information and utilizing it to estimate what an informed investor would pay for the income stream associated with the property.

C) The third method used for estimating probable selling price of both residential and commercial properties was to determine the cost of providing a replacement building of similar condition and utility. Land sales and local construction costs were analyzed to develop a replacement cost. This “cost approach” was used as a back-up or reference for all classes of property. It was used when neither the direct market comparison nor the income approach were considered reliable for a property.

(See Sales Approach for Residential Properties and Commercial Property Valuation Methodology below for a more detailed description of market modeling.)

- Value Estimates: The three valuation methods were computed on a property-by-property basis. Qualified appraisers reviewed each value calculation along with a photo of the property. A final value estimate was established for each property. The effective date of the reappraisal is January 1, 2002 for establishing the level of value. The values will be used for the January 2, 2003 assessment roll. All properties were appraised at fair market value (see below for separate New York State legal requirements for condominiums and cooperatives).
- Notice of Values: Beginning in July 2002, property owners received notices of their new tentative appraised values from CLT. They were advised of how to arrange an informal review of the value with CLT, if they were in disagreement.
- Informal Review Meetings: More than 32,000 residential and commercial property owners participated in these meetings, which were held at 1100 Prospect Avenue, Westbury, New York. The process took place from mid-September through mid-November, 2002. In December 2002, property owners received notices on the results of the review.

Property owners who disagreed with the new valuations of their properties could file an application for a review of their assessment. The grievance period began January 2, 2003 and continued through March 3, 2003. The Nassau County Assessment Review Commission reviews grievance applications that are filed.

Background

Reappraisal Process

Condominiums and Cooperatives (Class II)

Class II properties consist of apartments, cooperatives, and high-rise condominiums of four stories or more. New York State Real Property Tax Law mandates that each condominium and cooperative complex should be valued as if it were a single apartment complex or building, normally using the income approach by applying market rents and expenses to generate a total value. The total value is then apportioned to each unit based on the percent ownership of common elements (for condominiums) or by a formula established by cooperatives. The apportioned value becomes the basis for the assessed value for each unit in the complex.

Sales Approach for Residential Properties

Market value is defined as:

“the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) Buyer and seller are typically motivated; (2) Both parties are well informed or well advised, and acting in what they consider their own best interest; (3) A reasonable time is allowed for exposure in the open market; (4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale” ((International Association of Assessing Officers (IAAO)).

Sales and other economic activity from mid-1999 through mid-2001 formed the market evidence for the new property valuations. According to CLT, economic data was trended to a January 1, 2002 date.

CLT’s valuation approach was computed on a property-by-property basis. For residential properties, reports were generated that provided a direct market comparison and replacement cost. Residential sales prices were collected for each property sale within a roughly three-year period. Sales that were not “arms length” were excluded. Valid sales were analyzed and models of market activity were created for estimating the value of similar properties. Multiple regression analysis (MRA) was used. (MRA is a statistical technique used to analyze data in order to predict the value of one variable, such as market value, from the known values of other variables, such as lot size, number of rooms, and so forth. If only one variable is used, the procedure is called “simple regression analysis,” while when two or more variables are used, the procedure is called

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“multiple regression analysis”). The coefficients of the variables developed in the models through MRA were used in the direct market comparison method of estimating selling price (also called the “comparable sales method”).

According to CLT’s December 3, 2002 Mass Appraisal Report “residential properties were valued primarily using the sales comparison approach. In the CLT CAMA system this approach employs multiple regression analysis (MRA) and comparable sales analysis to develop estimates of value for each residential improved property. For each property, five comparable sales were selected, and their sales prices were adjusted to reflect the effective valuation date and characteristics of the subject property. Typically the five adjusted sales, a weighted average of the adjusted sales, and the MRA estimate for the subject property are then considered in computing a market value estimate for the property, with the middle three of these seven estimates being averaged together.”

Another method for estimating probable selling price was considering how much it would cost to provide a replacement building of similar condition, quality, and utility. Local construction costs were analyzed along with land sales to develop a replacement cost. By adding land value to what it would cost to replace the building new, less an allowance for depreciation, a rational estimate of market value was obtained. A model of this process was developed. This cost approach was generally used as a back-up by CLT. It was used for residential property in instances when the direct market comparison was not considered reliable.

Neighborhood delineation is defined as a study of forces or influences from outside which could be considered to have an effect on value. A neighborhood is a geographic area exhibiting a high degree of homogeneity in economic amenities, land use, economic trends, and property characteristics such as quality, age, and condition. Characteristics that define neighborhoods include physical boundaries: such as rivers, woods, roads, or railroads; housing characteristics: type, quality, age, condition; predominant land use; and typical land size and valuation. CLT defined 162 residential neighborhoods and 93 condominium complexes for valuation purposes. Land prices and depreciation tables were developed at the neighborhood level for valuation purposes.

Income Approach for Commercial Properties

The same appraisal process steps used for residential properties were used for commercial properties, except for the valuation determination. Commercial Class IV properties were valued using both the cost and income valuation techniques. CLT’s final valuation of virtually all income-producing properties, with the exception of certain special use type properties, such as marinas, were determined using the income method.

Under the income method, an estimate of the income and expense stream of the property is determined in order to calculate the net income the property would produce for its owner. CLT then determined the rate of return that the owner would require. The rate of return required represents a combination of the real estate tax burden on the property, the

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cost of financing the purchase of the property, and the owner's profit. The net income is then divided by the required rate of return to calculate the amount the investor would be willing to pay and still achieve the required rate of return.

CLT engaged subcontractors, Michael Haberman Associates Inc. and Smith and Salerno Valuation Services to construct the data tables necessary for property valuation. Nassau County was divided into 21 commercial neighborhoods. The subcontractors developed tables of rental rates, vacancy rates, expense rates and capitalization rates for various types of businesses for each of the neighborhoods. These rates were determined by reference to the leases compiled by the subcontractors. Capitalization rates were derived by mortgage rates and owners risk with respect to each type of building on a neighborhood-by-neighborhood basis. For each use type and neighborhood it determined square footage rates, vacancy rates, expense rates and cap rates. These tables formed the basis of calculation the value of each commercial property.

The other method of valuation used by CLT for commercial properties was the cost method. Industry standard tables, such as Marshall and Swift, were used to calculate the construction cost of the property, adjusted for depreciation using the effective age of the building as determined by CLT's data collectors. As previously mentioned, these cost method valuations were used only in limited number of cases such as governmental properties and marinas.

Statistical Analysis of the Revaluation Project

Statistical testing is used as a way to analyze the accuracy of a mass appraisal. A widely used measurement of accuracy and uniformity is the coefficient of dispersion (COD). COD is determined by dividing the average deviation by the median ratio. According to the New York State Office of Real Property Services (ORPS), the COD measures the extent to which the assessment ratios exhibit dispersion around a midpoint. The lower the COD, the more accurate the values are considered to be. A CLT study identified the Class I residential median for Nassau County as 100.25%, demonstrating compliance with the provisions of the court stipulation. The closer all school district sales ratios are to this number, the more fair the overall assessment is determined to be. A study by CLT determined that the COD for the new residential assessments in Nassau County is 7.39. The IAAO has set a maximum COD at 10.0 for new, homogenous areas and 15.0 for older, heterogeneous areas. In Nassau County, the COD for individual school districts ranged from 6.02 to 9.89, all below the IAAO maximum. Based on these results, CLT has stated that their assigned values are close to the sales ratio median and are valued fairly.

Another key statistic is the price-related differential (PRD), which is the simple mean of the assessment ratios divided by the value-weighted mean ratio. Industry and ORPS standards indicate that PRDs should fall between 0.98 and 1.03 for acceptable results. The PRD for Nassau County Class I properties of 1.01 compares favorably to IAAO

Background

standards, which note that if no bias exists, the two ratios should be close to each other and the PRD should be near 1.00.

Reviews of statistical reports performed by the Board of Assessor's Project Administrator have garnered similar satisfactory results overall for the project. The Project Administrator noted that the results are indicative of uniformity in the assessments that he described as "very good."

The Board of Assessors and the State Supreme Court justice overseeing the reassessment of Class I residential properties have monitored the key statistical measures of the validity of CLT's results and approved the new residential property values. However, the audit findings detailed below indicate that problems with the revaluation still exist and must be addressed. Persistent reports from individual homeowners, the media, and other interested parties that properties were incorrectly valued, particularly waterfront homes, proved to be substantiated. Legislative action needed to correct inequities in the new valuations of vacant residential land was not initiated in a timely manner, causing needless distress to many homeowners. We observed material inconsistencies in the valuation of land in a single small area, and in the valuation of apparently quite similar condominium townhouses. Instances were noted where factual data regarding property characteristics was incorrect on CLT's and/or the Department of Assessment's records. These areas must be addressed in a timely manner by the Department of Assessment to ensure that Nassau residents are fairly taxed on the value of their properties.

While the revaluation of residential properties was subject to Judge Winslow's review and approval, revaluation of commercial properties were not mandated and therefore were not reviewed by Judge Winslow. The Project Administrator performed statistical tests to insure that the revaluation of commercial properties complied with IAAO standards. The purpose of the study is to evaluate the uniformity of appraisals developed by CLT.

The results of the statistical tests were reported in CLT's "Mass Appraisal Report" issued December 3, 2002 and are as follows:

Ratio Report					
Number of Sales	Median	Mean	Wgt. Mean	Coefficient of Dispersion	Price-Related Differential
166	98.23	98.63	97.31	9.71	1.01

It should be noted that this statistical information was derived using only the 166 commercial sales that occurred during the six-month period between October 2001 and March 2002.

Background

An earlier test was run using valid sales occurring prior to valuation date. The results of those tests were:

Number of Sales	Median	Mean	Coefficient of Dispersion	Price-Related Differential
746	100.07	101.96	9.21	1.019

As presented by CLT, the statistical results of the revaluation of commercial properties fell well within the bounds established by the IAAO.

The results of these tests are very encouraging; however, they are based on a sample of only 166 and 746 valid sales of commercial properties, respectively. However, because Nassau County is required to refund school and town taxes it never collected, it is financially vulnerable to any revaluations that overstate the value of properties.

Nassau County has more than \$2.8 billion in debt outstanding, the highest county per capita debt level in New York State. More than one-third of that amount represents monies borrowed to pay refunds for over-assessed real estate. Because the county portion of real estate taxes is less than 25% of the more than \$1 billion in bonded debt outstanding for tax refunds and interest on successful tax assessment challenges, less than \$250 million represents refunds on taxes actually received by the county. The balance of the taxes upon which these refunds are based went primarily to school districts, with a small portion going to Nassau's towns and the City of Long Beach. While the preponderance of claims are filed on behalf of homeowners, 87% of the monies refunded go to commercial property owners. Given the County's level of exposure on refunds, it is important that all properties be valued in a defensible manner to withstand certiorari challenge. The county must be prepared to defend the valuations on a property-by-property basis if the owners grieve their assessments.

The revaluation of residential properties was subject to judicial review and approval, however, there was no such oversight with regard to the commercial revaluations. During the course of the audit, our review of both the residential and commercial properties raised concerns that should be addressed by the Department of Assessment to ensure that the annual revaluations are performed accurately.

Concerns about the commercial revaluation that are presented in the report include:

- There was no evidence provided that a number of deliverables in the contract were completed;
- An outside consultant opined that the valuation analysis conclusions reached by CLT did not appear to be appropriate and reasonable based upon the data presented;
- Very large revisions to property values, 30% to 40%, were made to a number of properties based upon informal reviews with the property owners. This raises a

Background

concern that the initial quality review was not adequate to detect major errors and that property owners who did not request an informal review may be faced with large over/under valuations.

- Special purpose and trophy properties may not have received the special attention warranted.
- We could not assure ourselves that the Department of Assessment's database was transferred to CLT's system in an error free manner.

These concerns are discussed in detail in the body of the report.

Objectives of Audit

We conducted a vendor performance audit of CLT. Our audit objectives were as follows:

1. To ensure compliance with contractual terms and deliverables.
2. To ensure that quality assurance procedures were in place and complied with throughout the reassessment process.
3. To verify that proper valuation methodologies were employed.

Scope and Methodology

This audit was complicated by the fact that CLT's revaluation project work was ongoing throughout the audit period. Therefore, we were auditing a "work in progress", with values still under extensive review and revision. In many instances we were not provided with the requested data and information in a timely manner despite numerous requests. Reminders had to be sent repeatedly. The final property database, which was requested on December 16, 2002, was not received until February 3, 2003. Certain audit work we had anticipated performing, such as tests of commercial and residential property exemptions, could not be performed because the information had not yet been entered into the IAS. During the course of the audit, it was brought to our attention by a member of the Board of Assessors and by property owners that numerous residential waterfront and vacant land properties had been valued incorrectly. CLT conducted extensive revaluation work on such properties. Due to time considerations, only limited follow-up on the results of such revaluation work could be performed.

This audit was conducted in accordance with generally accepted auditing standards. These standards require that the audit be planned and performed to obtain reasonable assurance that the audited information is free of material misstatements. An audit includes examining documents and other available evidence that would substantiate the accuracy of the information tested, including all relevant records and contracts. It includes testing for compliance with applicable laws and regulations, and any other auditing procedures necessary to complete the examination. We believe that the audit provides a reasonable basis for the audit findings and recommendations.

Background

General Scope and Methodology:

Material RFP requirements were identified and tested. RFP requirements for such procedures as conversion of county data, documentation of data quality control, data quality edits, batch quality control, and the grievance process were examined and commented upon. RFP training requirements were reviewed and the current status and progress of staff training was discussed with key Department of Assessment staff. A list of the fixed assets acquired was obtained from the department and testing was performed to assure that the assets were safeguarded and recorded in accordance with county procedures.

Residential Scope and Methodology:

CLT's manuals, training materials, and a variety of reports and supporting documentation were reviewed to obtain an understanding of the revaluation process. Our first priority was to determine if the Department of Assessment's property database had been accurately transferred to the IAS. We reviewed and tested CLT's procedures for reporting and describing each property, and attempted to verify that their quality control procedures had been complied with and were adequate.

To determine if residential properties were reasonably valued, and such valuations adequately supported, we tested the application of CLT's comparable sale approach to a number of properties, including one-family residences, two-family homes, and Class I townhouses. The comparable sales used by CLT in the valuation of a number of residential properties were examined closely for reasonableness as to location, similarity, and value. We paid special attention to residential waterfront and vacant land, as concerns were raised as to the accuracy of CLT's valuations in this regard. In fact, CLT performed significant additional review and re-valuations of waterfront and vacant residential land during the course of the audit.

Schedules and analyses performed by the Board of Assessor's Project Administrator and by CLT were examined and reviewed. We requested schedules that identified residential properties with significant changes in value, both increases and decreases.

Such properties were tested to assure that the new values appeared reasonable and were adequately supported. An understanding of the informal hearing process was obtained and documented. Informal hearing statistics were obtained and reviewed.

Commercial Scope and Methodology:

To test CLT's valuation of commercial properties we obtained the income and expense information used by CLT to derive values. Income and expense information for sample properties were compared to the income and expense data tables prepared by the subcontractors for the particular neighborhoods. Tax rate information was compared to actual tax rates for the properties as contained in the Department of Assessment's records.

Background

The comptroller's office does not have appraisers on staff to review the valuation methodology and reasonableness of the conclusions reached by CLT. Therefore, we contracted with Powers & Marshall Associates Inc. commercial appraisers, to review the valuation methodology of some large properties and some special-use properties, such as golf courses, marinas, movie theaters, etc. P&M was retained to develop a written opinion as to whether CLT's analysis and methods are complete, appropriate and reasonable for these properties. It was not required to render an opinion of value. To protect the County against a conflict of interest, the contract with P&M included the following clause: "POWERS & MARSHALL shall not perform any appraisals to be used in an action against COUNTY or for any other purpose on the properties reviewed in performance of this contract for a period of two years from contract date without the express written permission of COUNTY."

This audit was conducted in accordance with generally accepted government auditing standards as promulgated by the comptroller general of the United States. These standards require that the audit be planned and performed to obtain reasonable assurances that the audited information is free of material misstatements. An audit includes examining documents and other available evidence that would substantiate the accuracy of the information tested, including all relevant records and contracts. It includes testing for compliance with applicable laws and regulations, as well as any other auditing procedures necessary to complete the examination. We believe our audit provides a reasonable basis for the audit findings and recommendations contained herein.

Discussion of Audit Results

CLT and the Department of Assessment were provided with copies of this report for their review and comment. Their responses to our findings and recommendations are attached hereto as Appendices 3 and 4. In general, their responses did not address our major findings and recommendations other than to state their disagreement with them. Our comments on their responses are included as Appendix 1.

Findings and Recommendations

Inadequate Review of Commercial Valuations

Audit Finding (1):

CLT's quality control process appeared to be deficient. It did not properly document the rational for, or validity of adjustment factors to, income and expense rates used for the valuations.

Powers & Marshall reviewed the values of a sample of office buildings and shopping malls. The appraiser was provided with details from CLT's database including the properties square footages by use-type, rentals per square foot, rental adjustments, vacancy rates adjustments to vacancy rates, expense rates, adjustments to expense rates, tax rates and capitalization rates.

CLT's valuation system includes rental income, expense and vacancy rates by property type and neighborhood built into their valuation tables. If the tables do not produce valuation results acceptable to CLT, they assign adjustment factors to increase or decrease rents, vacancies or expenses so that the final valuation is acceptable. For example, the appraisers were dissatisfied with the formula-generated value of a movie theater in Long Beach. They incorporated a large adjustment factor to reduce the rental income by 60%. Similarly, they increased the rental income of Chase Manhattan Bank on Duffy Ave. in Hicksville by 70% and EAB Plaza by 35%. Vacancy rates for the Garden City and Marriott Hotels were reduced by 30%. These adjustment factors are in effect, "plugs" used to derive acceptable valuations. CLT did not document the basis for the adjustments, and therefore, no audit trail was maintained to enable us determine the reasonableness or comparability of the income and expense factors.

In order to determine if CLT's valuation methodology and the actual valuations obtained on the properties appeared reasonable, P&M asked that we obtain certain information from CLT on a property specific basis including:

- The identity of comparable properties used for determination of rental rates;
- The reasoning behind and basis for the rental adjustments;
- How vacancy rates were determined and the basis for the adjustments;
- The basis for expense rates and the basis for the adjustments; and
- An explanation of whether rents include tenant contributions for real estate taxes, common area maintenance, utilities, etc.

CLT's initial response to these questions was given verbally. CLT indicated that the factors were based upon the appraiser's professional judgment. Upon reviewing a property's value, if CLT believed the value should be higher it would adjust the rentals upward or the expenses downward or decrease the capitalization rate until CLT achieved

Findings and Recommendations (Continued)

an acceptable value. Adjustments were made without any documented justification. A review of adjustments could not be performed in absence of any documentation.

In an e-mail dated January 6, 2003, CLT wrote:

“You also continue to conduct your audit in the mind-set that the appraisal of real estate is a mathematical function for which every evaluation and conclusion can be substantiated with a chart or graph or table. You made a comment in the latest email request that... as auditors you try and rely on documentation as evidence. Your documentation is the C/I tables I delivered to you for the base level of valuation. What you are suggesting is that there should be a table for every adjustment to any of the valuation factors. This evidence does not exist. I suggest you might want to check with someone in the county assessment office to see if the prior reval company submitted a table for every adjustment made in conjunction with the previous commercial reval. I don't think you will find any.”

CLT followed up to additional questions with an-e-mail on January 20, 2003 that states:

“Again, there is no special file outlining each and every adjustment made during the appraisal process. This is something that isn't done under mass appraisal procedures. The information does not exist. Any one lease or income and expense statement is not used to value a specific property. All of the economic information developed for the Nassau County reassessment project is used collectively to establish the C/I tables.”

CLT's valuation adjustments were not done in accordance with their own procedures. CLT's Vol. 3 'Commercial/Industrial Review Manual' holds the reviewer responsible for the defense of values. The Commercial Reviewer is responsible to "Complete the review process by bringing together the land value and the depreciated value of all improvements to arrive at a defensible market value. There should be reconciliation between the cost and income approach where income is used as the valuation method or to support the cost approach to value. . . The reviewers importance in a mass appraisal program is highlighted by the fact that he or she has been entrusted to review all previously collected data, add input, analyze all pertinent facts, and arrive at a defensible opinion of value."

After the basics for a full value determination have been made, the reviewer is to:

"Verify the completeness and accuracy of specific data collected and entered on each parcel of commercial property; and analyze all pertinent data and process into an indication of value . . .In carrying out his or her duties, the commercial reviewers must keep in mind that they will probably be called upon to defend their valuation estimates, as well as their selection of valuation approach used in the determination. . . the reviewer must operate under an assumption that any part of the value estimate can be subject to appeal."

Findings and Recommendations (Continued)

The manual goes on to state:

"The validity of an appraisal can be measured against the supporting evidence from which it was derived, and its accuracy against the very thing it is supposed to predict - the actual behavior of the market. Each is fully contingent upon the ability of the appraisers to document adequate data and interpret that data into an indication of value."

CLT relied to a great extent on subcontractors to determine values. As such, and because CLT is responsible to defend values, it should have required the subcontractor's to fully document the basis of their valuations. Without supporting documentation, it would be difficult to adequately defend a properties valuation in a certiorari trial.

P&M had us ask CLT specific questions concerning some of the most significant properties in Nassau County, properties that should have received special treatment and review. P&M believes CLT should have been able to provide justification for the valuation factors used. CLT developed extensive tables by property type, by community, but then made major adjustments for these high-end properties without documenting the validity of the adjustments. Our consultant asked very specific questions regarding the valuations of properties. CLT, however, was unable to answer them.

As discussed in Audit Findings (3 & 7), P&M raised significant concerns about the income and expense projections used for the valuation of shopping malls (3) and office buildings (7). In order to obtain a better understanding of the valuations, P&M requested that we obtain explanations of the assumptions. Specific questions asked of CLT included:

Roosevelt Field Shopping Mall

- Rentals per square foot appear to be low for this prime property. Were the county records researched for certiorari proceedings on this property?
- Why is food court space rented at \$35 per square foot when the norm is for food courts to rent for more per square foot than stores?
- Why are expenses for retail stores 15% and 10% for mall stores?

Green Acres Mall

- What is the basis for, and how was the neighborhood adjustment of .80 estimated?
- Why is the expense model for mall stores in Green Acres 12% and 10% in Roosevelt Field?

Sunrise Mall

- Why is the expense model for mall stores 12.5% and 10% in Roosevelt Field?

900 Stewart Ave. (office building)

Findings and Recommendations (Continued)

- Why was the rental not adjusted for neighborhood while EAB Plaza was adjusted 1.4, in a seemingly lesser area? Both have the same base rent of \$23.
- Adjusted rent for Chase, Duffy Ave is \$27.50 (\$16x1.7). Adjusted rent for Chase, Stewart is \$23x1.) This appears illogical since Stewart Avenue, Garden City, commands higher rents than Hicksville.
-

EAB Plaza (office building)

- Rental of \$32.50 per square foot appears high. What was the support for this?

These were major properties that should have been reviewed by CLT in detail. Valuations should not have been performed without justification for the basis of adjustment factors and without adequate review.

Section 4.12 of the RFP, Field Review requires that “Nassau County and the Contractor(s), prior to field review, must agree on documentation procedures for those parcels with significant change in value, defined as a 10% variation, resulting during field review from the computer-generated estimate.” These documentation procedures should have required the appraisers to document the reasons for adjustment to valuations. Though required by the RFP no such justification for making adjustments to bring the computer generated review into line with the appraisers estimates was provided.

Other specific questions regarding properties with large valuation variances were asked. For example, we inquired about large properties that had a final valuation where the cost value was much higher than the income method valuation. An e-mail was sent to CLT on January 9, 2003 as follows:

“We have prepared an analysis of those class IV properties with an APR greater than \$5 million where the COSTVAL exceeds the APR by more than 15%. In some cases the costval is more than three times the current APR. A copy of this schedule is attached for your review. Please advise us if any steps were taken by CLT to "red flag" properties such as these as part of the quality assurance program and review them to ensure that the APR's are reasonable.”

No response was received to this request and therefore we cannot assure ourselves that any steps were taken by CLT to review the reasonableness of these values.

Auditor's Recommendations

The basis and justification for large adjustments from CLT's neighborhood tables to rental rates, expense rates, vacancy rates, etc. to specific properties income and expense projections should be documented. Most large commercial properties in Nassau County are grieved annually. As such, CLT should provide documentary evidence as to how the valuation adjustment factors were derived. This information might be helpful to the Assessment Review Commission and to the county attorney in their review or defense of the final values.

Findings and Recommendations (Continued)

Valuation Changes

Audit Finding (2):

CLT updated its values and released its final valuations to the public on December 2, 2002. We received updated values on selected properties and tried to obtain information as to the reasons for major changes. We sent an e-mail on December 17, 2002 stating that “We would appreciate it if for those properties with large variations (10% or greater) between the preliminary value and the final value, an explanation were included. For example, was the valuation change due to a change in square footage, rents, expenses, vacancy, cap rates taxes rates, etc. We were studying these properties based on the old assumptions and now need to know what caused the value decision to change.”

CLT responded to this request for specific information by stating:

“You requested that we compare the value as it appeared on the first files sent to you vs. the updated values and an explanation of the reason for any changes to values.”
“...there were over 10 commercial appraisers conducting the informal meetings at the meeting site. . . . As a possible assist to you, we did keep a meeting folder for all meetings and, for the most part, contains reasons for changes as a result of a requested meeting. Further, we made changes to properties even though the property owner did not request an informal meeting. If new, additional data came to our attention from any source, we looked at the value of the property and, if appropriate, made a change whether it was an increase or a decrease. The informal meeting folders will be turned over to the county upon job completion. They will be available for you to review at that time should you so desire. There is no computer program available to produce your request from the system.”

We sent CLT an abbreviated list of only eleven properties that had a value change greater than \$5,000,000 and requested that they provide the reasons for the changes. They responded that nine of the property’s values were changed as a result of an informal review. One (48/602/26) was changed because of an allocation of building value based upon instructions from the Assessor. The other (18/B18/334) did not have a meeting, but CLT did not provide a reason for the change.

Findings and Recommendations (Continued)

As can be seen from the following table, the nine properties whose valuations were changed as the result of a hearing were all reduced significantly.

Valuation Changes Resulting from Informal Hearings				
<u>Property</u>	<u>Sec/Blk/Lot</u>	<u>Original Valuation</u>	<u>Revised Valuation</u>	<u>Percentage Change</u>
Broadway Mall	11/D/13640	\$146,373,360	\$116,182,230	-20.63%
Fortunoff's	44/78/63	27,320,370	17,089,160	-37.45%
Avalon Towers	59/89/8	26,392,650	16,353,910	-38.04%
Jackson Terrace	34/291/78	21,918,730	12,420,620	-43.33%
Gateway	8/B18/334	48,610,390	41,408,850	-14.81%
Birchwood Court	9/210/377	18,339,340	11,168,090	-39.10%
Birchwood Court	9/210/229	18,283,290	11,168,090	-38.92%
Cherry Valley Apartments	34/1/1	19,771,770	13,754,280	-30.43%
Bristol-Meyer Squibb Pharmacy	44/D/335	18,309,190	12,616,280	-31.09%

It is apparent that CLT's quality control and valuation methodology was not sufficient to obviate the need for large adjustments based upon evidence presented by property owners. CLT's initial values on these major properties were overstated by 30-40%. Had the property owners not taken advantage of the informal hearing process, the county may have faced millions of dollars of avoidable certiorari refunds in future years.

In the case of Jackson Terrace, a certiorari judgment was issued in January 2001 that resulted in a cost to the county of \$565,000. This judgment was based on year 2000 valuations of \$9,000,000 by the petitioner's appraiser and \$10,145,375 by the county's appraiser. This information was readily available to CLT and should have been considered in their decision before setting a preliminary value of almost \$22 million.

Based upon CLT's response, the only record readily available for reasons to changes in valuations would be in those cases where the valuation was changed as a result of an informal hearing. The documentation of adjustment factors, as well as subsequent changes to adjustment factors might be critical to the defense of values. Additionally, this documentation is to be provided to ORPS and to obtain state aid. Pursuant to Section 4.19 Submissions for State Aid/ Value Verification: "The Contractor(s) shall assemble and provide documentation to Nassau County for reimbursement for state aid pursuant to the State Board's Rules as well as that documentation required for value verification as required by the ORPS."

All major changes in value to large properties should have been carefully reviewed and documented as part of CLT's quality review process. CLT did not provide us with any audit evidence that this took place.

Findings and Recommendations (Continued)

Auditor's Recommendations

The Department of Assessment should review the evidence presented and reviewer's notes from the hearings related to these properties. A determination should be made if the factors presented at the informal hearings that led to these valuation changes should be applied to similar properties that were not the subject of informal hearings. If so, their assessments should also be adjusted to avoid future certiorari refunds.

Findings and Recommendations (Continued)

Residential Comparable Sales

Audit Finding (3):

Background:

CLT has observed that the sales comparison approach is considered the most objective and reliable method of estimating the value of residential improved properties. The “essence” of this approach is estimating the property values from sales of similar properties. CLT believes that this approach works well with a mass appraisal technique because of the availability of a large sales base and a standardized database of property characteristics, which can be used in both market analysis and comparable sales selection. CLT generally uses five levels of groupings in their market analysis and comparable sales selection, which are: neighborhoods, neighborhood groups, clusters, market areas, and valuation areas. For Nassau County, CLT’s approach included the use of neighborhoods and limited use of neighborhood groups (i.e., three neighborhoods were grouped in a “neighborhood group”). CLT assigned parcels in a market area to a market model. The market model is a “statistical picture of the elements affecting sale price within the market area.” Differences in property characteristics such as size, grade, age, and CDU (condition/desirability/utility rating) result in differences in market value for individual properties within the market area.

CLT developed 38 residential models for the Nassau County revaluation project, each with a different set of variables and weights. Three condominium models were also developed. About 100 to 140 variables (such as basement, bathroom, fireplace, CDU, deck, garage, pool, etc.) are included in each model. In relation to the models CLT has represented the following. The models were tested repeatedly, by a team comprised of CLT’s mass appraisal experts, local consultants SVS and MHA, and the Board of Assessor’s project administrator. Over a six to seven-month period, over 400 “passes” or tests of the models were performed. Every neighborhood identified by CLT has an individual profile- i.e., typical size, age, and a number of other characteristics. CLT reviewed these characteristics and determined which neighborhoods could be grouped in each model.

Locational factors and physical characteristics were used as selection criteria in the market valuation process. A weighting process was used to define the relative importance of each selection criteria. CLT’s CAMA system used weights to calculate the variability. For example, each comparable sale property was assigned weight points for each square foot living area difference from the subject property (the property being valued). Comparable sales were assigned weight points for each month the date of the sale differed from a predetermined date of value (for Nassau County, December 31, 2001). The best comparable sales for each property were those with the fewest distance

Findings and Recommendations (Continued)

points. Sales prices of the comparable properties are adjusted for the differences between the sale property and the subject property. The adjustments used were from the market model. As noted earlier in the report, the market value for each property was determined using five adjusted comparable sales, the MRA (multiple regression analysis) estimate, and the weighted average, for a total of seven values. CLT's system dropped the two highest and the two lowest values, and averaged the remaining three.

Each comparable sale property had numerical "distance" points identified which reflected the similarity of the comparable property to the "subject property" being valued. During the mass appraisal process, CLT's staff indicated that a comparable property with distance points of 50 or less is "right on the mark." Distance points from 51-80 might warrant a brief look from an appraiser. For points of 100-200, the appraiser would take a closer look. At 200-300, the appraiser would go out and look at the property. Distance points of 300+ were generally considered "not comparable," requiring an appraiser's review of the property's value.

CLT's staff observed that for 90 to 95% of Nassau County homeowners, the comparable sales process worked well. However, CLT conceded that there will be cases where errors were made. That is the reason that a five-month informal hearing process was included in the reassessment process. This review process however, is likely to detect only those properties that are over-assessed. Homeowners who are under-assessed will not complain, exacerbating the tax burden on those that are correctly assessed or over assessed.

Audit Finding:

During the course of the audit, individual homeowners and other interested parties voiced concerns to us about the accuracy of CLT's use of the sales comparison approach for residential properties. Issues raised included concerns regarding the appropriateness of the comparable properties and possible problems with the algorithms used in CLT's models.

CLT carved the county into 162 residential neighborhoods and 93 individual residential condominium developments. For selection of comparable sales and valuation modeling purposes, they then consolidated these down to only 38 neighborhood models and three condominium models. **Thus, the valuations were determined as if the entire county consisted of only 38 neighborhoods and three condominiums.** This number of models appears far too small for a county as diverse as Nassau. School district residency is a major consideration in home purchase and valuation in Nassau County. School districts are perceived to be of varying quality and they have different tax rates. High quality and low costs increase home values. However, CLT's use of only 38 models commingled different school districts.

We questioned the project administrator about CLT's commingling of school districts. He responded as follows: "When neighborhood delineation was being defined, it was obvious that school district boundaries were very important in most areas, but not that

Findings and Recommendations (Continued)

important in others. Analysis and local expertise confirmed the same. While perception can be a big issue, the areas where school boundaries were not respected can be defended based on the data at the time of the reassessment. If you were involved in the decision process, I'm confident that you would have agreed with the neighborhoods at the time they were developed. Did we expect the neighborhoods to be perfect? The answer is no. You do the best you can from the data available and address complaints or errors through the hearing process. Then you work to refine the boundaries for subsequent reassessments.”

We also found that the selection of comparable sales did not take into account the physical distance between properties. Location has always been a prime determinate of a property's value. The Project Administrator informed us that physical distance could not be taken into account because the county's Geographical Information System is not well developed and not integrated with CAMA. The Project Administrator did not believe that physical distance was an important consideration. He wrote: “Should we have used distance considerations in comparable sales selection? From a perception standpoint, it appears to be more acceptable to the public to do this. However, experience has shown that it does not significantly increase the accuracy of the values (some experts would argue it has no impact). Even if we wanted to though, Nassau County did not have the systems to do so. To do so would have cost many millions of dollars.”

The inclusion of school district boundaries as a modeling criteria and the use of physical distance between comparable properties as a consideration in the selection of comparable properties could have led to more accurate valuations.

Recommendation

CLT has provided the Department of Assessment with the Integrates Assessment System. The Department will have the responsibility of refining the information in the system annually, by identifying and tracking new sales, updating the models, changing coefficients. As CLT's staff observed, this is “not a simple, quick, easy process.” Changes to one variable in a model will affect the other variables. It is essential that the Department devote adequate resources, time, and effort to the project, perhaps with assistance from local experts.

The Department of Assessment should integrate the GIS system with the CAMA system so that physical distance between properties can be considered in the selection of comparable properties for future revaluations. More precise use of school district boundaries should be considered in the definition of neighborhoods and models.

Findings and Recommendations (Continued)

Income and Expense Information

Audit Finding (4)

Background

According to CLT's Audit Liaison, there are 21,600 of "commercially improved properties". After excluding class 4 parcels such as "small improvement associated with", apartment buildings, hotels, etc., there are 16,234 commercial properties eligible for valuation under the income approach. From these properties, approximately 80% (or 13,056 per CLT) were valued using the income approach; the balance was valued using the cost approach. The income approach is used to estimate market value, by estimating what an informed investor would pay for the income stream associated with a particular parcel of real estate.

CLT has stated that the availability of income and expense data for any property does not determine whether or not it is valued using the income approach. As stated in the RFP, "the income approach differs from traditional computer-assisted income valuation techniques in that it does not require income data on each property. Models are developed on the basic physical characteristics collected on the standard Commercial/Industrial data collection form. Valuation results may be adjusted for exceptional properties by imputing income quality rating, expense adjustment factor, occupancy adjustment factor, and capitalization adjustment level. Provisions are included for excess acreage valuation." CLT relied heavily on income and expense information that was prepared by Smith Valuation Services and Michael Haberman & Associates.

Audit Finding:

A valuable source of income and expense information, the "Data Verification Report," which includes property owners/managers income and expense statements and rent rolls, was not fully pursued by the assessor to the extent permitted by law. A comprehensive database, consisting of actual income and expense information from property owners, could have been derived from these reports to further enhance CLT's tables of income and expense information. In order to encourage property owners to comply with the informational request, the law provides for the imposition of civil penalties for failure to respond to the request. Criminal penalties may be imposed for failure to respond truthfully and correctly.

To ensure that the most accurate accumulation of property data characteristics was achieved, taxpayers were sent data verification mailers. A cover letter, which was approved by the Department of Assessment, was included to explain the purpose and content of the mailer. Property owners were advised to review the property inventory data descriptions and bring any discrepancies to the attention of CLT. Commercial property owners were sent a "Data Verification Report" with an accompanying cover

Findings and Recommendations (Continued)

letter, which requested the submission of their most current yearly income and expense information and a current rent roll.

Provision for requiring property owners/managers to submit income and expense information is included in the law. In accordance with the Administrative Code, §§ 6-30.0 b, property owners/managers are required to complete an income and expense statement, as well as supply a current rent roll. The Code states “Where requested by the Board of Assessors an owner of income-producing property shall file with the Board of Assessors an income and expense statement for the most recent taxable year. “The violation of any provision of this section or of any rule or regulation promulgated hereunder, shall render the violator liable for payment to the county of a civil penalty, recoverable in a civil action, in a sum of not more than five hundred dollars for each such violation, said sum to be determined by the Board of Assessors.” The notification request to the property owners was improperly drafted because it was not addressed from the Board of Assessors and did not require a certification statement. The request was made by CLT, rather than by the Board of Assessors, as authorized by the law. CLT, did however, include a notification of these provisions on the “Data Verification Report” and their cover letter.

The assessor should have included an explanation of the need for income and expense information along with the legal requirements for compliance on their Website. A downloadable version of the form should have been included for the convenience of the property owners. Had these steps been taken the rate of compliance may have been greater.

To date, only 5.5% of these income and expense requests were returned. This response rate equates to about 15,000 property owners/managers that did not respond. The Assessor did not pursue the imposition of fines for failure to respond even though there was potential revenue of \$7,500,000. The imposition of just a few fines may have been enough to promote a higher response rate.

The Administrative Code, §§ 6-30.0 (d) states that “Such statement shall contain a certifying sentence by the owner that the information contained therein is true and correct to the best of his knowledge and belief and that making of any willful false statement of material fact in the statement will subject the owner to the provisions of the penal law relevant to the making and filing of false instruments.” Pursuant to Penal Code §175.30, “Offering a false instrument for filing in the second degree” is a class A misdemeanor, and a fine of up to one thousand dollars may be imposed by the court. This section states, “A person is guilty of offering a false instrument for filing in the second degree when, knowing that a written instrument contains a false statement or false information, he offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.”

The use of the required certification statement strongly encourages the respondents to provide accurate and truthful information. A review of the form and the accompanying

Findings and Recommendations (Continued)

cover letter, disclosed that there is no ‘certifying sentence’ contained therein. The lack of a certification precludes the imposition of civil penalties for any willful false statements, or for the filing of false instruments by the owner

Adequacy of Database

We were unable to assure ourselves that the data received was properly utilized or sufficient. CLT informed us that the property owner’s income and expense was not input into a database. Rather, the questionnaires were turned over to the subcontractors who used them as a reference for valuation review.

In contrast to Nassau County, where there was very little response to the Income and Expense information request, New York City relies to a great extent on property owner’s income and expense information to calculate its annual revaluations of commercial property. The New York City Department of Finance collects information on the operation of real estate. This information is input into a database and used for trending purposes. To accomplish this, the filing of Real Property Income and Expense (“RPIE”) Forms with the Department of Finance is required by NYC Administrative Code Section 11-208.1. Any property that is income-producing is subject to the RPIE filing requirements, unless it falls within one of the exemptions specified in the law.

All owners file form RPIE-101 as the first two pages of the submission. Most filers are required to submit a supplemental statement of income and expenses on a schedule attached to form RPIE-101. For example, Form RPIE-201 is attached for rental property; Form RPIE-208 is for hotels and motels; Form RPIE-214 is for other business operating properties and Form RPIE-203 is for cooperatives and voluntary filings by condominium boards. The last section on Form RPIE-101 is the “Certification”, which requires a signature attesting that “I am the owner or other person responsible for the payment of taxes, or the person authorized by the owner or taxpayer to make this statement. I certify that all information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render this statement null and void.”

New York City makes these forms available from the Internet, by fax, by mail or in person. In contrast, our assessor’s Website only allows for the viewing of a sample disclosure notice and accompanying cover letter.

Section 4.11.2 of the RFP, dated May 2000, states “Nassau County and the Contractor(s) [CLT], with the advice of ORPS, will mutually agree on the amount of income and expense data that is complete and representative of the universe of commercial/industrial properties.” We were not able to ascertain from the Project Manager whether this requirement was performed. Therefore, without the assurance that the amount of income and expense data obtained was “complete and representative” we cannot determine whether the income approach used by CLT resulted in accurate valuations of the 13,056 income producing properties.

Findings and Recommendations (Continued)

Recommendations:

As part of ongoing annual revaluation, Department of Assessment should utilize the provisions of the law to induce property owners to respond to the income and expense information requests. Language as contained in the Administrative Code relating to the “certifying sentence” as well as the possible penalty which could be imposed for “...the making of any willful false statement of material fact...”, should be incorporated onto the “Data Verification Report” as well as any accompanying cover letter. This inclusion will enable greater assurance as to the accuracy of the information contained therein, as well as enable the imposition, and collection of possible penalties for failure to respond.

Income and Expense information received from property owners should be input into a database as a resource for the trending of neighborhood tables. The assessor should accumulate and analyze the data received for the purpose of updating valuation models for the annual valuations. This data should be used in addition to the Income and Expense information gathered by the subcontractors to develop more comprehensive valuation models.

The Department of Assessment’s Website should be updated to allow for property owners to download and allow electronic filing of income and expense forms. This would reduce the cost in mailing and processing these files on an annual basis.

Findings and Recommendations (Continued)

Permits and Interior Inspections

Audit Finding (5):

Background

Commercial properties were last re-assessed by Nassau County in 1986, 17 years ago. Except for new construction, and in those cases where property owners obtained building permits, these properties have not been inspected for renovation and changes in conditions. The RFP, section 4.12 states that “Field Review may be conducted from the nearest public road or public right of way from which the property is visible.” Section 4.8.3 ‘Parcel Entry’, of the Request for Proposals (RFP) states “Data verification may take place from the public right-of-way unless additional collection is required.”

Municipalities in Nassau County have established building codes to encourage planned development within their boundaries and to assure compliance with the New York State Uniform Fire and Building Code. The municipalities issue building permits when material changes are made to residential or commercial properties. For example, the Town of North Hempstead requires a building permit when an owner adds a deck or patio, or adds a tool shed or retaining wall to his/her property. Many additions or changes are considered assessable improvements, resulting in a need to re-value the property for assessment purposes.

The county’s contract with CLT clearly holds CLT responsible for the verification of property data. Item #13 of Exhibit E, which is the ‘Addendum to RFP, including modifications and additions to RFP’ states: “Pursuant to Section 4.8.3 of the RFP, COMPANY is responsible for data verification with respect to all properties. COMPANY represents that with respect to property improvements not visible from the public right-of-way, all reasonable efforts will be made to obtain appropriate data inventory information, such as making appointments with property owner, review of Village, Town and City records, review of GIS data, review of aerial photographs, and aerial views as required.”

CLT’s Data Verification Manual reinforces this responsibility with data verifiers by making them accountable for obtaining information critical to the valuation. It states that, “The role which the Data Verifier plays in the appraisal process is clear. The Data Verifier’s importance is equally clear . . . the Data Verifier is a key to the success of the program. A job poorly verified will more than likely end poorly. . . we cannot expect the output to be any better than the input.” It goes on to state, “The information recorded on the property verification document is not only important to the Company, but also equally important to assessing officials and the taxpayers. For this reason, aside from the fact that the Data Verifier has a job to do, the Data Verifier must exercise extreme care in verifying and recording construction specifications both accurately and completely.”

Findings and Recommendations (Continued)

However, some important information cannot be accurately verified from the right-of-way. The Nassau County, NY C/I Data Verification Manual published by CLT requires Data Verifiers to obtain/verify the following type of information:

- Parking Data – number of covered and uncovered spaces. Consideration should be given to the floors, ceilings and walls.
- Interior Finish – Extent of interior finish expressed as a percent
- Partitions – Extent of partitioning of walls (none, below normal, normal, above normal)
- Heating System - type
- Air Conditioning - type
- Plumbing – extent and adequacy
- Lighting – extent and adequacy
- Functional Utility of Basement, First Floor, Above First Floor - (none, poor, fair normal good)
- Elevators – number and capacity

Audit Findings

The Assessor's Office did not require CLT to perform interior inspections of commercial properties even though they could have resulted in a more accurate valuation. **Even for those commercial properties that provide public access, the public areas were not inspected.** Commercial properties have not been re-assessed since 1986. Given the proven inaccuracies of the assessments, the opportunity should have been taken to re-inspect buildings where possible.

In a meeting held with CLT's Director and Audit Liaison (July 31, 2002), we were informed that CLT verified property descriptions from the public right-of-way only, and did not enter buildings. CLT relied on information from the Assessor's Department for property details. If there were significant changes to be made to the information contained on the property cards, CLT asked to enter the property or sent out a mailer to obtain additional property information. CLT, however, was not able to provide us with any data as to how many properties were entered or how many mailer responses they received.

A comparison of the Department of Assessment's records to CLT's records revealed a number of differences that can not be resolved without an on site inspection. These included differences in square footage, such as SBL 44/78/2, where CLT listed the building at 77,632 square feet and the Department of Assessment listed the property at 67,824. A similar example can be seen in SBL 46/567/61 where CLT lists the basement at 63,644 square feet while the Department of Assessment lists the basement at 31,822 square feet. The difference could have been resolved through an interior inspection.

Findings and Recommendations (Continued)

Some leverage existed to permit inspection of certain properties; however, it was not utilized. CLT did not coordinated with the Assessment Review Commission and the county attorney's office to determine those properties where the county has cause to inspect the interior of the properties. Tens of thousands of Nassau County property owners grieve their assessments each year. Once grieved, a property owner's refusal to permit inspection of the building can result in denial of administrative relief.

The Real Property Tax Law § 523-b 5 gives the Assessment Review Commission the right to inspect properties. It states, "The chairman, a commissioner, or their representative may, when accompanied by the petitioner, enter upon real property and into buildings or structures . . . to ascertain the character of the property. . . . The willful failure, neglect, or refusal by the person whose real property is assessed . . . to permit such entry upon real property and into buildings and structures may, in the discretion of the commission, result in the denial of the complaint filed with the commission thereby denying administrative review and relief." The commissioner could have designated CLT data collectors as representatives. The threat of denial of administrative relief may have been used to obtain property owners' permission to enter premises.

As an alternative to performing inspections from the right-of-way only, the contract could have permitted CLT to inspect properties open to the public. A limited inspection of commercial properties open to the public would still be beneficial to the assessor in determining the property's value.

According to the Uniform Standard of Professional Appraisal Practice ('USPAP') Standard Rule 6-1 " In developing a mass appraisal, an appraiser must: (a) be aware of, understand, and correctly employ those generally accepted methods and techniques necessary to produce a credible appraisal; (b) not commit a substantial error of omission or commission that significantly affects a mass appraisal; (c) not render a mass appraisal in a careless or negligent manner." USPAP Standard Rule 6-4(d) addresses avoiding errors of omission or commission, in that "...decisions must be made on procedures that might cause significant errors of omission such as site inspection." According to ORPS "the decision on whether or not site inspections (or interior inspections) are required may differ from property to property. If current, accurate data from other reliable sources can be obtained and the value can be accurately ascertained without such inspections, then an error of omission has not been committed. However, on complex properties where equipment (that is defined as real property by the RPTL) comprises a substantial portion of the value or where value components as of the date of valuation have changed since the last known reliable inventory, then on-site and interior inspection are critical to a substantial portion of the property value and should be required."

Because the Assessor has not re-assessed properties since 1986, it is likely that information useful to the accurate assessment of properties could have been obtained through interior inspections. CLT could have used the data obtained to test the Assessor's records in order to make a determination as to accuracy of the property information in the assessor's database.

Findings and Recommendations (Continued)

Building Permits

Although the Department of Assessment provided CLT with permits, no comprehensive list or report of permits is in existence. CLT was authorized by the department to request an interior inspection of a property if there was an outstanding building permit. We were advised that boxes of permits were available for our review. CLT has stated that they “did not systematically distinguish between requests for the interior inspection from any other request for interior inspections.” Because most residential property data verification was conducted from the public right of way assessable improvements might not have been readily visible from the sidewalk, such as a finished basement or attic, may not have been included in the revaluation. The same is true for commercial and industrial property, where data verification again generally was from the public right of way. CLT and the assessor did not establish a formal control mechanism, such a permit numbering system to ensure that all permits were entered into CLT’s IAS system and utilized during the revaluation process.

Auditor’s Recommendations

The Assessor should coordinate with the Assessment Review Commission and the county attorney to arrange inspections of those properties that have been grieved. These inspections will help enable the assessor to maintain its database on an up-to-date basis, leading to more accurate annual revaluations.

The Assessor should consider revising its internal control procedures to assure that permit information is accumulated in a traceable, reportable format. Reports could then be generated that match permits received with the individual related properties and any associated changes in description and/or value, to ensure that all permits are evaluated and accounted for.

Findings and Recommendations (Continued)

Shopping Malls

Audit Finding (6)

Background

Shopping malls represent some of the most valuable properties in Nassau County, and as such, should have received special attention and careful analysis. The Comptroller's Office requested that P&M review four shopping malls, Sunrise, Green Acres, The Source and Roosevelt Field.

Audit Finding

P&M concluded that the analysis, opinions and conclusions for all four malls do not appear to be appropriate and reasonable based upon the data presented

Examples of valuation concerns regarding the four malls raised by the outside appraiser included: (1) There was no basis for the rentals applied to various areas; (2) There was no separation of kiosk and cart rentals, which rent for 5 to 10 times the square foot rental of mall stores; (3) Rentals do not include tenant contributions for real estate taxes, electricity or common area maintenance, a factor which can contribute 10% to 20% more gross income; (4) There was no justification or explanation for the separation of "mall" and "retail" stores; (5) Vacancy rates were well below market; (6) Expense ratios are inconsistent between malls; and (7) Adjusted rentals are 20%-30% below market.

P&M found the Roosevelt Field rental rates of \$32.50 per sq./ft. (retail) and \$47.50 per sq./ft. (mall) are 20%-30% below market while the rental rates used for the department stores were 20% to 30% too high and cannot be supported by the marketplace. Rents for the Green Acres Mall of \$18.75 per sq./ft. (retail) and \$28.13 per sq./ft. (mall) are also 20%-30% below market. Similarly, the rentals of \$21.25 per sq./ft. (retail) and \$31.88 per sq./ft. (mall) for the Sunrise Mall were 20% to 30% below market. Expense ratios at the Sunrise Mall were 13.5% for 'mall' stores. This was inconsistent with the 10.8% rate used for Roosevelt Field.

Recommendation:

We recommend that the Department of Assessment review the valuation of shopping malls as to their reasonableness.

Findings and Recommendations (Continued)

Golf Courses

Audit Findings (7)

Background

CLT's property inventory includes a total of 48 golf courses, including 33 private courses. The golf courses were valued by CLT as a unique property type. The valuations were determined based upon the cost method, by valuing separately the land, improvements, and the cost of building the golf holes. Adjustment factors were applied to each of these components based upon CLT's judgment. Based upon this methodology, CLT has increased the assessed values of the private golf courses by an average of 50%. Some golf courses were increased by more than 100%, such as the Sands Point Golf Club (140.03%) and the North Shore Country Club (122.77%).

Valuation of golf courses is the subject of a June 4, 1991, NYS Supreme Court decision (*The New Country Club of Garden City v. The Board of Assessors and The Board of Assessment Review of the County of Nassau*). Judge Frank S. Rossetti ruled that the club should be valued using the income method and wrote that:

“this is the first trial dealing with the 1986 revaluation of golf courses, and the parties stipulated that this would be a test case, with the determinations here to serve as guidelines for the other 33 golf courses in Nassau County. . . . Hopefully the parties will now be able to agree on reasonable approximations of value for golf courses in light of this decision. It would certainly be in the public interest to do so, given the lengthy litigation that would otherwise ensue if each of the remaining golf course cases had to be tried.”

Valuation Conclusions

P&M reviewed CLT's valuation of golf courses, with particular emphasis on one golf course, the Piping Rock Club, including a review of all background data supplied by CLT. They reviewed the completeness of the material, adequacy and relevance of the data and appropriateness of the methodology and techniques utilized to determine whether the analysis, opinions and conclusion is appropriate and reasonable.

Based on their analysis, P&M concluded that although the material presented appears to be complete, the data relevant, the methodology and techniques utilized appropriate to the valuation process, the adequacy of the data is not sufficient to be used in the valuation process and the analysis, opinions and conclusions do not appear to be appropriate and reasonable.

P&M indicated that CLT's assumptions were not validated by anecdotal or statistical data. There was very little differentiation in value between the 33 private golf courses.

Findings and Recommendations (Continued)

The three components of value, as applied to golf courses are as follows:

I. Land Value

Valuation of Golf Course Land			
Number of Golf Courses	Value per <u>Acre</u>		<u>Reason</u>
22	\$50,000		
7	\$55,000		Waterfront
1	\$40,000		Waterfront/Wetlands
1	\$52,500		Waterfront
2	\$37,500		Excess Land

There was very little differentiation between golf courses in the value of land. Of the 33 private golf clubs 76% (or 25) were valued identically at \$50,000 per acre. No adjustments were made for neighborhoods. Land in all communities was valued identically. It is not likely that all communities land would have the exact same fair market value per acre. P&M did not find proper documentation for CLT's use of \$50,000 per acre. He wrote that "The universal use of \$50,000 per acre for land value is reportedly based on market-supported data but the data is not documented or analyzed. The appraiser indicates that each property was reviewed and compared to available golf course land sales that well support the conclusion of value. It would appear to be more appropriate to reverse the process and use the comparable sales to estimate the value of the subject."

Land value of seven clubs was increased to \$55,000 per acre to reflect its incremental value as waterfront property. P&M's opinion was that "A 10% increase in land value is a little low. If this were a residential property the increment could be five to ten times higher depending on location of waterfront." We found that The Hempstead Golf and Country Club's land value was increased 5% as waterfront, even though it is landlocked.

Two clubs' overall land value per acre was decreased because the clubs had excess land that is, the club had more land than was necessary for an 18-hole golf course. CLT reduced the value of the acreage for these properties by 25%. The land at the Meadowbrook Club (267.34 acres) and the Piping Rock Club (339.24 acres) was valued at an average of \$37,500 per acre. Other clubs, such as Deepdale Club (174.83 acres) were valued at \$50,000 per acre and were not considered to have excess land. We found that CLT applied the 25% excess land discount to the entire parcel rather than to just the excess land. As a result, the excess land may have been undervalued:

Findings and Recommendations (Continued)

	Value of Excess Land						
	(a) Acreage	(b) Deepdale Acreage	(c)=(a-b) Excess Land	(d) Value of Land	(e) Value of Non-Excess Land	(f)=(d-e) Value of Excess Land	=(f/c) Excess Land/Acre
Meadowbrook Club	267.34	174.83	92.51	10,025,420	8,741,474	1,283,946	\$ 13,879
Piping Rock Club	339.24	174.83	164.41	12,741,432	8,741,474	3,999,958	\$ 24,329
Deepdale	174.83	174.83	0	8,741,474	8,741,474	N/A	N/A

Since CLT valued non-excess land at \$50,000 per acre, by default the excess land at the Meadowbrook Club was valued at only \$13,879 per acre and Piping Rock at only \$24,329 per acre. This seems to be an excessively low fair market value for acreage in Jericho (Meadowbrook Club) and Brookville (Piping Rock).

II. Cost of Construction of Golf Holes

CLT determined a value of \$150,000 as the construction cost of each golf hole on 27 of the 33 private or equity courses. The other six golf courses were valued at \$165,000 per hole due to a 10% adjustment for topography. P&M commented “There is no support offered which indicates that private golf courses have a replacement value of \$150,000 per hole.” Again, there was very little differentiation in the cost of each hole.

III. Building Value

CLT uniformly valued all above grade buildings at \$90 per square foot and all below grade building area at \$25 per square foot. No differentiation was made for grade of construction, quality of materials or condition of the property. The same 75% depreciation factor was applied to 29 of the 33 clubs. This same factor was used despite the fact that the ages of the clubs varied widely. For example, the age of the Wheatley Hills Golf Club was given as 1900, while others, such as The Piping Rock Club, (built in 1938 and renovated in 2001) listed much later dates of construction. Powers and Marshall wrote “Nor does there appear to be any support or documentation for the applied depreciation or for the basis of using a lesser amount.”

Golf courses vary widely in terms of quality, condition and reputation. Some of the courses in Nassau County are annually ranked in the top 100 in the country by leading golf publications. Five of the private clubs were ranked among the top golf courses in the state. CLT does not appear to have given due weight to these differentiations. They made minimal adjustments for neighborhood, waterfront land or for building construction.

Findings and Recommendations (Continued)

Valuation Methodology

CLT used the cost method of valuation for valuing golf courses. This method is not in compliance with Judge Rossetti's 1991 decision (*The New Country Club of Garden City v. The Board of Assessors and The Board of Assessment Review of the County of Nassau*) that golf courses should be valued using the income method.

Auditor's Recommendations

We recommend that the Department of Assessment review the valuation of golf courses. Given that the average increase in tax burden will be about 50%, with increases as high as 140%, it is likely that the valuations will be challenged through certiorari proceedings. A determination should be made as to whether the valuations will be deemed reasonable with those that would have been obtained if the valuations had been performed under the income method.

Findings and Recommendations (Continued)

Marinas

Audit Finding (8):

Background

CLT provided a list of 138 marinas in Nassau County with a total fair market value, as determined by CLT of \$97.8 million. The imputed value of these Marinas, based upon the Department of Assessment's assessed value and the Class IV property equalization rate of .0539 was \$107.2 million. CLT reduced the valuation of these marinas by an average of 9.6%, ranging from an increase of 400% to a decrease of 75%. On an individual basis CLT reduced the assessed value of 94, or 68% of the marinas, and increased the value of 44 (32%) marinas.

Valuation Conclusions

All marinas were valued using the cost method. Michael Haberman Associates, Inc. wrote in a memorandum dated August 1, 2002, "In order to value marinas in an accurate and consistent manor (sic) an effort was made to retrieve improved sales and financials for marina type operations. After reviewing the collected data, it became apparent without retrieving closing statements and interviewing principals of the sales; to value the properties via the Sales or Income Approaches would produce inconsistent results. In conclusion, the cost approach was deemed the most reliable approach to value."

P&M reviewed the materials provided by CLT relevant to the appraisal of marinas, specifically focusing on the values of four marinas. They reviewed the Manhasset Yacht Club, Keystone Yacht Club, Brewer Yacht Yards and the Seaford Marina III.

P&M reviewed the marina appraisals for the completeness of the material, adequacy and relevance of the data and appropriateness of the methodology and techniques utilized to determine whether the analysis, opinions and conclusion is appropriate and reasonable.

Based on their analysis, P&M concluded that although the material presented appears to be complete, the data relevant, the methodology and techniques utilized appropriate to the valuation process, the adequacy of the data is not sufficient to be used in the valuation process and the analysis, opinions and conclusions do not appear to be appropriate and reasonable.

Powers & Marshall concluded:

"The appraiser presents eight (8) sales of marinas and five (5) supporting appraisals from other non-contracted appraisers of marinas situated in Nassau County. The appraisals, in turn, offer nine (9) leases and 26 marinas sales (with some duplication).

Findings and Recommendations (Continued)

None of the appraisals use the cost approach. The appraiser nevertheless concludes that the cost approach is the most reliable approach to value. Three of the appraisals submitted rely on the sales comparison approach, one uses the income approach and one uses the income and sales comparison approaches. It would appear that sufficient data could have been gleaned from these appraisals and with proper adjustment related to the subject.”

Misclassification of Properties

CLT included two properties, Two Cousin’s Fish Market and St. Peter Fish Dock, in their list of Marinas and valued them using the cost method. These properties are retail/wholesale fish markets not marinas. CLT was inconsistent in the valuation of these properties because it valued almost all retail properties using the income method. CLT should have valued these properties, like other similar properties, using the income method

Recommendation:

We recommend that the Assessor review the valuation of marinas. More than two thirds of the marinas are receiving reductions in their assessed values and it is unlikely that these valuations will be challenged through certiorari proceedings. Properties that may be under-assessed will remain under-assessed.

Those marina properties that received increases may challenge their assessments. Challenges to marina valuations are typically defended by the county through the use of income method valuations. A determination should be made as to whether the valuation conclusions reached by CLT will be deemed reasonable when compared with those that would have been obtained if the valuations had been performed under the income method.

Findings and Recommendations (Continued)

Movie Theaters

Audit Findings (9)

Background

CLT provided a list of 22 movie theaters in Nassau County with a total fair market value, as determined by CLT of \$77.6 million. The imputed value of these theaters, based upon the county assessor's assessed value and the 2001 Class IV property equalization rate of .0539 was \$84.5 million. CLT reduced the valuation of these movie theaters by an average of 8.1%, ranging from an increase of 139% to a decrease of 39%. On an individual basis, CLT reduced the assessed value of 64% of the theaters and increased the value of 36%.

Valuation Conclusions

Powers and Marshall reviewed the materials provided by CLT relevant to the appraisal of movie theaters, specifically focusing on the values of four theaters. They reviewed the Manhasset Theater, Loews Levittown, United Artists Westbury and the Bellmore Theater.

Powers & Marshall reviewed the completeness of the material, adequacy and relevance of the data and appropriateness of the methodology and techniques utilized to determine whether the analysis, opinions and conclusion is appropriate and reasonable.

Based on their analysis, P&M concluded that although the material presented appears to be complete, the data relevant, the methodology and techniques utilized appropriate to the valuation process, the adequacy of the data is not sufficient to be used in the valuation process and the analysis, opinions and conclusions do not appear to be appropriate and reasonable

P&M concluded:

“Although the methodology, techniques and data are relevant, the analysis and the application of the data is unclear. Leases are presented, but how this data is applied is not set forth. The appraisal (in spread sheet form) indicated a rental per square foot. However, how the rental was arrived at is not indicated. This is a critical estimate since the entire analysis and final value depends on the accuracy of this number.

Nine comparable leases are submitted six (6) of which provide rent per seat and eight (8) rent per screen. Although the appraiser indicated that price per seat or per screen is desirable none of the leases appears to be utilized. The appraisal indicates that the

Findings and Recommendations (Continued)

theaters are comparable to vanilla box retail facilities and that the data from the market indicated rental ranges from \$15 to \$30 per square foot. This data was not offered nor was it shown how it related to the subject.”

CLT’s subcontractor, Smith and Salerno Valuation Services, wrote in a “Correlation of Market Data – Movie Theaters” that “While it may be desirable to analyze movie theaters on a price per screen or on a price per seat basis, this information was not available in the county records and could not be obtained from the property owners”

We disagree and believe this information was readily available. The number of screens should have been obtained by data verifiers when they viewed and photographed each theater. They could have easily noted the number of screens on the theater’s marquee. The permitted occupancy of the theaters is available from county records maintained by the Fire Marshall. This information could have been used by CLT to sharpen their valuation estimates.

Completeness of Theater Inventory

The RFP, Section 4.11.3 requires CLT to isolate unique and highly complex properties. However, the list of movie theaters provided by CLT appears incomplete. We compared the list of theaters to those listed in Newsday’s theater timetables and found that the following theaters were not included on CLT’s list:

- Bellmore - Five Star Theaters Bellmore Playhouse
- Bethpage - Mid Island Triplex
- Great Neck – Clearview Squire Cinemas
- Malverne – Malverne Cinemas 4
- New Hyde Park – Clearview Herricks Cinema
- Port Washington – Clearview Soundview 6
- Valley Stream – Green Acres Cinemas

Since these theaters were not valued along with the other movie theaters the possibility exists that their valuations are not consistent.

Audit Recommendations

We recommend that the Assessor review the valuation of theaters in light of the available information on number of screens and theater occupancy.

The valuations of the theaters that were not included in CLT’s list of movie theaters should be reviewed to ensure proper and consistent valuations with those included on the list.

Findings and Recommendations (Continued)

Office Buildings

Audit Findings (10)

Valuation Conclusions

Powers & Marshall Associates Inc. reviewed the materials provided by CLT relevant to the appraisal of office buildings, specifically focusing on the values of EAB Plaza, 900 Stewart Ave. and 100 Duffy Ave.

Powers and Marshall reviewed the completeness of the material, adequacy and relevance of the data and appropriateness of the methodology and techniques utilized to determine whether the analysis, opinions and conclusion is appropriate and reasonable.

Based on their analysis, P&M concluded that although the material presented appears to be complete, the data relevant, the methodology and techniques utilized appropriate to the valuation process, the adequacy of the data is not sufficient to be used in the valuation process and the analysis, opinions and conclusions do not appear to be appropriate and reasonable.

With regard to EAB Plaza and 900 Stewart Avenue, Powers & Marshall concluded that:

- (1) There was no basis for the rentals for each category of space and comparable rentals do not support the conclusions;
- (2) Rental rate of \$31.05 at EAB Plaza were above market; which is within the range of \$26 to \$28;
- (3) There was no allowance for tenant contributions to real estate taxes, utilities or common area maintenance. All of these are common in the Nassau County Market;
- (4) Rentals are inconsistent among office buildings. The rental of \$31.05 per square foot is 35% higher than 900 Stewart Avenue. This is illogical when comparing the buildings in terms of location and physical characteristics;
- (5) The expense ratio of 27% for EAB Plaza is inconsistent with 25% for 900 Stewart Avenue. Both are below the average expense ratio of 30%-35% in the marketplace.
- (6) The equalized tax rate of .024545 is incorrect.
- (7) The neighborhood adjustment of 1.4 is unsupported and has no apparent basis in fact.

Findings and Recommendations (Continued)

Audit Recommendations:

We recommend that the Assessor review the valuation of office buildings. A determination should be made as to whether the valuations are reasonable in light of the valuation issued raised by the outside appraiser.

Findings and Recommendations (Continued)

Hotels

Audit Findings (11)

Valuation Conclusions

P&M. reviewed the materials provided by CLT relevant to the appraisal of the Garden City Hotel and the Marriott Hotel in Uniondale.

Powers and Marshall reviewed the completeness of the material, adequacy and relevance of the data and appropriateness of the methodology and techniques utilized to determine whether the analysis, opinions and conclusion is appropriate and reasonable.

Based on their analysis, P&M concluded that although the material presented appears to be complete, the data relevant, the methodology and techniques utilized appropriate to the valuation process, the adequacy of the data is not sufficient to be used in the valuation process and the analysis, opinions and conclusions do not appear to be appropriate and reasonable.

Powers & Marshall concluded that:

- (1) The Room Rate of \$180 per day is \$20 to \$50 below hotels stated rack rates and significantly below the marketplace for convention hotels.
- (2) Rent adjustments of plus 10% for the Garden City Hotel and minus 19% for the Marriott Hotel is inconsistent and unfounded.
- (3) Total income from the Garden City Hotel is 82% higher than Marriott. This is not reasonable.

Audit Recommendations

We recommend that the Assessor review the valuation of hotels. A determination should be made as to whether the valuations are reasonable in light of the valuation issued raised by the outside appraiser.

Findings and Recommendations (Continued)

Tax rates

Audit Finding (12):

Background

The property tax burden imposed on each commercial property is a key component of the property valuation formula under the income method of valuation. A prudent investor will demand a return on the property investment that will allow for the payment of real estate taxes, long term financing and a risk adjusted return on the owner's equity. If hypothetically, two identical properties existed, with all investment factors being equal except the tax rate, the property with the lower tax rate would command a higher fair market value because the owner could demand a higher price and the property would still provide the investor the required rate of return. While mortgage rates and owner's equity returns are subjective factors, the tax rate is not. Every property has a discrete tax rate that should be used when the property is valued under the income method.

CLT informed us that virtually all investment grade Class IV properties were valued using the income method.

Audit Finding

Incorrect Tax Levies

CLT calculated the income method valuations using incomplete tax levies. We were informed by CLT that the tax rates they used were calculated based on the 2001-2002 school rolls and the 2001 town rolls. They did not include special district taxes in their calculation of the tax burdens. When questioned as to why special district taxes were not included, CLT responded that special district rates are "not universally applied to all assessments all of the time and is sometimes applied only to a portion of any one assessment. This special rate code was not used in the overall rate for this reason. It would be applied incorrectly when used on a parcel where it isn't appropriate." Additionally, CLT's Commercial Supervisor said that their system could not accommodate the thousands of different tax rates for each property within the county.

A sample of ten properties was selected from CLT's list of the top 200 properties to test the accuracy of the tax rates. We found that for five of these ten properties the tax rates were understated by amounts ranging from 29% to 40%. The understatements were due not only to CLT failing to include special district taxes, but also excluding taxes that generally apply to all properties, such as county general tax, county police headquarters, fire prevention, community college, county police, and town taxes. It should be noted that if CLT uniformly excluded the same taxes on all properties, the assessments of

Findings and Recommendations (Continued)

properties relative to each other might not have been impacted. However, we found an inconsistent treatment of taxes. Some properties included taxes other than school taxes while others did not.

The impact of the tax rate understatement was reviewed for two of the sample properties. We concluded that by substituting the correct tax rates for those used by CLT the valuations increased by 13%. This can be seen from the following calculations:

Income Method Valuation of Properties				
	<u>Sec.45 Blk. 566 Lot 5</u>		<u>Sec.44 Blk. 78 Lot 62</u>	
	<u>CLT</u>	<u>Actual</u>	<u>CLT</u>	<u>Actual</u>
	<u>Tax Rate</u>	<u>Tax Rate</u>	<u>Tax Rate</u>	<u>Tax Rate</u>
Property Net Income (a)	\$ 4,847,709	\$ 4,847,709	\$ 10,923,691	\$ 10,923,691
Capitalization Rate				
Mortgage and Owner's Return	10.5000 %	10.5000 %	10.000 %	10.000 %
Tax Rate	<u>4.5021 %</u>	<u>6.454 %</u>	<u>2.454 %</u>	<u>4.018 %</u>
Total (b)	15.0021 %	16.9537 %	12.454 %	14.018 %
Value (a/b)	<u>\$ 32,313,536</u>	<u>\$ 28,594,033</u>	<u>\$ 87,812,309</u>	<u>\$ 77,924,599</u>
Percentage Difference	13 %		13 %	

In addition to the properties reviewed as part of the test sample, we also reviewed the valuation of several "Trophy Properties". We found that both the Roosevelt Field Mall and EAB Plaza may have been overvalued because their tax rates were understated. Only school taxes were included in the tax rates for both of these properties. The impact of the valuation on just these two properties can be seen as follow:

	<u>Roosevelt</u> <u>Field Mall</u>	<u>EAB</u> <u>Plaza</u>
Value Per CLT Calculation	\$ 368,093,390	\$ 163,448,931
Value with Correct Tax Rate	\$ 320,530,838	\$ 139,128,635
Tax Burden per CLT Valuation	\$ 19,840,234	\$ 8,819,704
Tax Burden per Correct Valuation	<u>\$ 17,276,612</u>	<u>\$ 7,520,562</u>
Potential Tax Overcharge per year	<u>\$ 2,032,030</u>	<u>\$ 1,119,018</u>

The county's potential liability for certiorari refunds on just these two properties could grow at the rate of \$3 million per year if they are grieved and their assessed values are not defensible by the county.

Findings and Recommendations (Continued)

We questioned CLT about the use of incorrect tax rates and their impact on valuations. CLT's commercial supervisor responded:

"I do not agree with your conclusion that your sample properties are overvalued by 13%. Nowhere in your written information do you mention valuation of similar properties or sales of similar properties. The correctness of any set of values, and indeed the beginning point of the valuation process is sales. Once the sales information is analyzed, benchmarks for valuation based on the type of property are determined. Typically, this is on a per square foot or some type of unit basis. Once this is completed, the balance of the valuation process is an exercise in determining what are the income, expense, vacancy and cap rates that will lead to the correct valuation of any group of properties. With all of this information in hand, the appraiser establishes a value, not only based on the typical model established for a given neighborhood or area of the county, but on the subject property itself.

The combined cap rates for Nassau County generally produce a total of around .155%. The breakdown is .105% return rate and .05% effective tax rate (ETR). This results in the ETR amounting to about .32% of the total rate. On most countywide reassessment projects ETR's are actually input into the IAS valuation system for each neighborhood and use type. This was not possible for Nassau County due to the thousands of separate tax rate tables. Once it was determined that the special district tax rates do not apply equally to every property in a jurisdiction and, further, not always to 100% of the actual assessment on a specific property, we made a decision to not use the special district tax rates since the final decision as to value is based on sales as previously mentioned. A review of the final sales ratios will bare this out.

During the valuation process, both the base equity return rate and the ETR were available to the appraisers by being printed on the review document. The cap rate is one of the fundamental items that is checked on every appraisal just as the income, vacancy and expense rates are. The end result being that the appraiser wanted the final value based on the sales information for that type property. The cap rate is only one component of the overall process. There is no impact on the final values based on the special district tax component. The final answer as determined by the appraiser is the true value of the property."

We do not agree that sales prices represent the starting point for commercial valuations. The Project Administrator informed us that sales were not used in the valuation of commercial properties. He said that sales were only used for statistical analysis and that for many categories of properties, there were not enough sales to be statistically valid. The Project Administrator provided us with the results of the statistical testing for commercial properties. We noted that there were only 742 valid commercial sales used for comparative purposes.

We were informed at a meeting with the subcontractors (Smith and Salerno Valuation Services and Michael Haberman Associates) and the commercial supervisor that an incorrect tax rate might not lead to an incorrect valuation. They said that the determinate factor used by the appraisers in reviewing each property was the appraisers' professional

Findings and Recommendations (Continued)

judgment. As long as the appraisers agreed that the final value was appropriate, it did not matter that the tax rate was incorrect. They said that if the appraisers were not satisfied with the value, they might make a change to a factor other than tax rate. For example, they might raise or lower rentals, expenses or vacancies until a reasonable value were achieved. In effect, CLT created a plug factor.

When questioned about the use of these adjustments, the Project Administrator stated that if the tax rates were wrong they should have been corrected. CLT should not have adjusted values by changing income and expense items to compensate for incorrect tax rates.

Auditors Recommendations

CLT should review the tax rates used for valuation purposes to ensure that there is uniform treatment for all commercial properties. In those cases where special district taxes, including county taxes, were excluded from the tax rate calculation, corrections should be made. The appraisers should re-review these properties and determine if all the income and expense factors are defensible in a certiorari proceeding.

Findings and Recommendations (Continued)

Outliers

Audit Finding (13)

An integral part of CLT's valuation quality control process should have been a careful review and justification of valuations of the properties defined as outliers. In the subcontractor's May 28, 2002, status report, mention is made of outliers. They were defined as properties whose estimated market values differ from the reviewers estimate of value by over 10%. The subcontractor went on to indicate that "various edit reports were completed including the 10% variance report, sales variance report and negotiated A.V. variance report." We requested these reports from CLT and from the Project Administrator. CLT provided a sample outlier report, but it did not include any information as to how the properties were identifies as outliers or how the differences were reconciled or resolved. We reviewed the outlier report and requested that CLT provide report details such as:

- 1) What were the criteria CLT used to select the outliers identified on the report?
There were percentage differences between the preliminary appraised value and the final appraised value ranging from 85% down to 6%. Why did a 6% difference represent an outlier?
- 2) An explanation of how was the report used and an explanation of the review process?
- 3) An explanation of how the final valuation determinations made?

CLT did not respond to this information request. There was no audit trail that could be followed to ensure that proper quality control procedures were followed.

Auditors Recommendations

The Department of assessment should require CLT to produce the required outlier reports and provide explanations/justification for the final valuations.

Findings and Recommendations (Continued)

Integrity of the Database

Audit Finding (14):

We were unable to ascertain whether the assessor's database was properly transferred to and maintained on CLT's Integrated Assessment System (IAS) System.

Section 7 of the RFP "Deliverable Products" required that edits be performed to ensure the integrity of the database and that the output reports be turned over to the county. It states "The following programs will be run in the prescribed sequence in order to assure that the subject and sales inventory data and associated output reports turned over to Nassau county are as clean as possible:

Inventory Editing - this program performs standard and/or user defined cross edits on the residential and commercial inventory files. The output report must show that all possible edit errors have been resolved, or else maintain the master files to resolve errors and re-run until all edit errors have been resolved; and

Sale/Subject Mismatch - the program compares the subject inventory to sale inventory and displays mismatches. The output report must show that all erroneous mismatches have been resolved, or else maintain master files to resolve errors and re-run until all possible edit errors have been resolved. Copies of these files must be available to Nassau County prior to final valuation production." We were not provided with these output reports

An example of an apparent error that escaped detection during the edit process can be seen in the following: A residential property was reported with zero (-0-) total rooms. A residential property with zero (-0-) rooms is illogical and should have been caught and fixed as part of the edit process. This property was used as a "comp" for a subject parcel. The Department of Assessment's current system's records also reflected zero rooms for this residence. We requested an explanation from CLT as to the impact of this exception on the property's valuation, any effect due to its use as a "comp", and why CLT edit reports did not identify this property as having a descriptive error. This property is still described in the assessor's myproperty.com website as having zero rooms. CLT failed to respond as to why their edits did not catch this error. (Note: The Project Manager has indicated the number of rooms would not affect the property's valuation.)

The assessor's office recognized the importance of maintaining the integrity of the database of all properties and ensuring that it was properly transferred from the assessor's to CLT's system. The proof of a proper transfer of data from assessor's system to CLT's system should have been documented through edit reports. The assessor included the following statements in the RFP

Findings and Recommendations (Continued)

Section 4.8.4 File Creation and Maintenance of the RFP dated May 2000 states that “Documents for parcels that are data verified are to be manually verified for completeness and computerized. The Contractor(s) is responsible for the data collection of all parcel changes that are reported to the Contractor(s) prior to taxable status date of the implementation year. Examples are changes due to: Parcel splits; parcel merges; demolition; fire; and new construction. The Project Administrator is responsible for the reporting of such changes to the Contractor(s). All parcels will be edited and file maintained by the Contractor(s) prior to parcel inventory mailer production. At that time, a complete set of edit reports is to be given to Nassau County and ORPS.” “Throughout the project, the Contractor(s) will make available, upon request, all edit reports and subsequent output reports to the Project Administrator and ORPS.”

Section 4.10 of the RFP states that “The Contractor(s) will submit to the Project Administrator a list of the proposed edits prior to file editing. ORPS will advise the Project Administrator as to the applicability of these edits and the final edits will be mutually agreed upon by the Contractor(s), Nassau County, and ORPS. These edits will remain frozen until a change becomes necessary and has been agreed upon by the three parties. The Contractor(s) will be responsible for resolving all errors that result from the error runs. It is the Contractor(s) responsibility to provide a complete inventory file for valuation that is as error free as possible. This inventory file must be available to Nassau County by taxable status date.

The Contractor(s) will submit to Nassau County a copy of the output reports from the valuation edit program. The Contractor(s) will resubmit to Nassau County a copy of the error reports from the final run of land, cost and commercial edit programs prior to valuation.”

CLT’s internal audit dated July 1, 2002 stated “Data residing on the County’s system – including legal information such as current ownership as well as descriptive data such as land size, dwelling style, and sketch vectors – was moved directly or converted by way of tables to create the IAS database. Data items required for IAS which were unavailable for conversion were either given a default value, imported from another source, or flagged for input during field data verification.

We attempted to audit this data conversion. However, through discussions with CLT’s audit liaison and the Project Administrator we were informed of the following:

- 1) Edits run on the data conversion include those scripts detailed in the CLT Manual (Section 6.1), the sample scripts provided to us, as well as other Ad-Hoc edits performed by CLT and Jim Culver during the project. Error reports from these edits were not saved, but were discarded after the exceptions were fixed or verified not to be exceptions. Pursuant to Section VI of the Agreement between the county and the Contractor dated 8/16/00, “Data collected, including but not limited to all completed image files, and all work product in connection with the Project is the property of the COUNTY. Data collected and obtained by the COMPANY as a result of this AGREEMENT shall remain the sole property of COUNTY, and COMPANY may not

Findings and Recommendations (Continued)

use the data in any way other than for the compliance of the Project requirements.” Therefore, CLT may be considered in violation of the Agreement by not retaining all work product produced relating to the Project, including but not limited to: data verification documents which were printed for all parcels; completed work packs from both residential and commercial data verification; edit error reports and batch edit reports.

- 2) No batch edit reports exist. However, CLT indicated that the wording in the RFP, page 30, Section 4.10 was an archaic carryover from old ORPS language and that rather than providing the County with "a copy of the error reports from the final run of land, cost and edit programs prior to valuation" CLT is providing a system with the capability to run the error reports.

CLT responded (in an e-mail dated 9/11/02) to our request to provide “changes made to assessment data resulting from CLT’s field verification, i.e. construction grade, property size, condition and any other property factors” that “This would require the compilation of a very significant and complex program which is not practical to create.” Therefore, we have been unable to assure ourselves these changes were made or were made accurately.

We additionally requested (on 8/29/02) the preparation of edits that show any changes made to any subjective data fields. CLT’s response was “This is not practical. It would involve program specifications, writing a program, testing, producing a report and major searches through the database”.

We have concluded that no audit trail exists that would enable us to determine if an edit were run against the entire inventory and determine the results achieved by running the edits. Instead, a particular parcel could be researched to determine if any changes were made. We were not able to, nor were we able to obtain assistance to, interpret the scripts provided by CLT.

We requested the Project Administrator to provide copies of all correspondence from ORPS that would evidence compliance with RFP section 4.10 stating that ORPS was to advise the Project Administrator as to the applicability of these edits and that there was to be mutual agreement between the Contractor(s), Nassau County, and ORPS as to the final edits. There was no evidence of this mutual agreement. Jim Culver’s 11/14/02 E-Mail states that “All communications from ORPS to myself were via E-mail. Due to limited e-mail capacity, I do not save messages.”

Auditor’s Recommendations:

- 1) CLT should comply with the terms of the RFP and produce the required Edit Reports and subsequent output reports. Test checks should be performed by the Assessor to ascertain their accuracy.

Findings and Recommendations (Continued)

- 2) The Contractor, CLT and ORPS should memorialize their agreements as part of the quality assurance process.

Findings and Recommendations (Continued)

Contaminated Properties

Audit Finding (15)

At a meeting with project subcontractor MHA, we questioned how CLT addressed the valuation of contaminated property. We were advised that there was no record of contamination and that its impact on value had not been considered. He also noted that the county does not have a database of these properties. This was subsequently confirmed by Nassau County's Geographic Information System (GIS) Administrator, who indicated that while various departments have information on Nassau County's contaminated sites (i.e., Health Department, Fire Commission, Department of Public Works), there is no complete, comprehensive listing in the GIS data base.

At a subsequent meeting with CLT representatives we again confirmed that CLT did not have a list of contaminated properties in Nassau County. As a result, properties were valued without regard to contamination. If property owners brought contamination to the attention of CLT as they participated in the information feedback/informal review process, CLT reviewed the supporting documentation and adjusted the valuation of the property to reflect the cost to cure the condition. No adjustments to values were made unless there were complaints by property owners.

Attached to an internal CLT memorandum dated April 23, 2002, is correspondence from MHA which outlines the efforts taken to identify contaminated properties. Included in the avenues researched, was a search of the Internet. MHA wrote that "An exhaustive search on the Internet only provided general information. Sites such as the United States Environmental Protection Agency only provided very vague maps and data." MHA also states "All efforts to verify cause, extent of contamination and stage of cleanup proved to be inconclusive and therefore, we are unable to base a supportable adjustment to properties affected by environmental issues." CLT's commercial supervisor further states "As you can see, this effort has not been successful, however, we will continue to address this issue and any new avenues discovered will be pursued."

A quick review of governmental web sites conducted by our office, however, indicated that information on contaminated properties is readily available from state and federal sources. The NYSDEC List of Voluntary Cleanup Program Sites in Nassau County lists twenty-one (21) sites. Annual Registry Reports and other documentation listing contaminated sites in New York State are available for free or at nominal cost from NYSDEC. A "Superfund Inquiry" from the United States Environmental Protection Agency's (EPA) National Priorities List (for Nassau County, NYS, Region 2) yielded forty-four records of contaminated sites. Further inquiries on the individual sites provide background information, including site location and maps. For example, the location of the Jackson Steel National Priorities List site in Mineola, New York is identified by both cross-street (First Street) and area type (mixed-use commercial/residential) information on the EPA web site.

Findings and Recommendations (Continued)

Tax Payments on Contaminated Properties

When a property owner fails to pay property taxes, the county obtains a tax lien against the property and attempts to sell the lien. Since the county guarantees the tax roll for the School Districts and Towns, the county is responsible to pay these taxes when the property owner defaults on them. Because of the costs of remediation, the county often cannot sell tax liens on contaminated properties, and it becomes the “de-facto” taxpayer.

We have found instances where the county is making such payments on properties that have been found to be contaminated or “environmentally sensitive.” Thus, CLT’s failure to consider the impact of contamination in their valuation process may result in the county paying unnecessary taxes on over-assessed properties. This only served to increase the county’s financial burden.

Because CLT has failed to identify contaminated properties, we cannot accurately determine the magnitude of this impact on the county’s financial resources. However, we obtained a schedule from the Treasurer’s Department that identifies some of the contaminated properties on which the county holds tax liens. Their total current outstanding lien balance is over \$11 million. Some of those properties that have the largest balances are as follows:

<u>S/B/L</u>	<u>Current Balance</u>
35/371/6	\$696,161
11/144/21	\$387,687
43/56/50	\$319,159
44/F/5	\$1,163,173
40/153/24	\$957,637
9/672/4	\$1,169,601
47/A/267	\$2,944,646
47/A/296	\$1,680,798

Recommendation:

Under the Source Water Assessment Program (SWAP), a Nassau/Suffolk database of contaminated sites is under development, which will be provided to the county’s Department of Public Works shortly. It is anticipated that information from a variety of sources (federal, state, county, etc...) will make this the most comprehensive information on contaminated sites available to the county to date. The Assessor should confer with the County Attorney to evaluate the information and determine if it provides sufficient detail to re-value the contaminated properties to reflect the loss of value resulting from

Findings and Recommendations (Continued)

the cost to cure the contamination. This step may serve to avert costly tax certiorari proceedings.

Findings and Recommendations (Continued)

Audit Finding (16):

Broadway Mall

Our review of trophy properties revealed that CLT's quality control procedures did not detect a large overstatement of value of the Broadway Mall in Hicksville. The appraised value of the Broadway Mall was reduced by \$30.2 million, or 20.6%, after initially releasing the value to the public.

CLT was provided with reference resources to ensure the reasonableness of the commercial valuations. These resources included recent appraisals prepared for the County Attorney's defense of certiorari proceedings. There was ample evidence of valuation in the County Attorney's files that should have been relied upon for valuation guidance. The Broadway Mall was the subject of a recent certiorari settlement in which the Mall was awarded a 23% reduction in assessed value for the tax year 2001/2002. This certiorari process involved the preparation of appraisals by Powers and Marshall, Sterling as well as a review of Sterling's appraisal prepared by Smith & Salerno. Smith and Salerno reviewed the Sterling appraisal and concluded that "The appraisal; report is a comprehensive, well written and well supported valuation analysis of a complex property." Based upon the appraisers' valuation determinations, the County Attorney settled the assessed value of the property at \$5,945,360. This assessed value equates to a fair market value of \$92,896,250, using the then county stipulation rate of .064. A comparison of the three appraisals with the county attorney's settlement and CLT's preliminary and final values is as follows:

Broadway Mall			
11 D 1364			
Valued By	Tax Year	Original Appraisal/Settlement	2002 Time Trended Appraisal
Sterling Appraisals Inc.	1/1/00	\$97,000,000	\$124,171,397
County Attorney Settlement	2001/2002	\$92,896,250	\$110,303,525
CLT Preliminary Value	1/1/02		\$146,373,360
CLT Final Value	1/1/02		\$116,182,230

Findings and Recommendations (Continued)

While CLT's final valuation appears reasonable as compared with the appraiser's valuations, their preliminary valuation of \$146,373,360 was much higher than could be reasonably supported. The appraisal was available to CLT at the time of the original valuation. A review of them it should have precluded CLT from making such an overstated valuation determination. Additionally, CLT was aware that the property sold for \$72,113,500 on July 5, 2001. CLT did not consider this sale valid because it included additional parcels. However, the fact that it included additional parcels and still only sold for \$72 million, should have been indicative of the fact that the Mall did not have a value of \$146,373,360.

There were major differences in the assumptions used by CLT than those used by the County Appraiser. The gross income was 25% higher than that indicated by the County Appraiser while the vacancy rate used by CLT was only 50% of that used by the Appraiser. This combination of overstated income and/or understated vacancies gave CLT a value 23% higher (on a time trended basis) than that of the County appraiser. CLT value was also 33% (on a time trended basis) than the value settled by the county attorney.

CLT's quality control procedure was deficient in not catching this error before valuations were initially released to the public. The appraisals were made available to CLT. The appraisals should have been reviewed and reconciled to CLT's valuation determinations prior to the release of preliminary values.

Complex Properties

The Assessor and Contract Administrator recognized that Nassau County includes unique, highly complex and trophy properties. These are properties that require special treatment to ensure that they are properly valued. The request for proposals required, in Appendix B, the preparation of a "Unique or Highly Complex Parcel List" to "be identified jointly by the Contractor(s) and the Project Administrator".

Section 4.11.3, of the RFP incorporated by reference into the contract, reads as follows:

"The Project Administrator and the Contractor(s) will attempt to isolate the unique parcels and highly complex properties at the outset of the project. If the property cannot be valued using a computerized mass appraisal system, the Contractor(s) will assign an appraiser to apply appropriate appraisal methodology, and create a brief, 2-3 page limited summary narrative appraisal for these parcels.

The key elements that are to be shown in the limited summary narrative appraisal are

- a) a complete inventory including copies of property record cards;
- b) sketch;
- c) photographs;
- d) description of property;

Findings and Recommendations (Continued)

- e) delineation of the area;
- f) land valuations;
- g) cost valuations;
- h) market approach, if appropriate;
- i) income approach, if appropriate;
- j) correlation of values;
- k) reference manuals used.”

We requested copies of the analysis performed and the write-ups on these unique and trophy properties. The Project Administrator replied, “There were no unique and highly complex properties. All properties were able to be valued using mass appraisal.”

When CLT was requested to provide narrative summary appraisals for the unique properties, they provided only a ½ page write-up covering the two co-generation plants, as well as a write up on Belmont Racetrack.

Audit Recommendations

CLT should make full use of available resources such as recently prepared appraisals to confirm the validity of values generated by their computer models.

The County Assessor should require CLT to prepare the required narrative summary appraisals for unique and highly complex parcels. If the narrative summary appraisals do not support CLT’s valuation, changes, wherever legally allowed, should be made to reduce the County’s refund exposure.

Findings and Recommendations (Continued)

Residential Vacant Land

Background:

State Senator Dean Skelos (R-Rockville Centre) and Assemblyman Harvey Weisenberg (D-Long Beach) have sponsored an amendment (A1251/S493) that will would change a current law that results in the nearly tripling of tax levies on 7,000 vacant residential lots in Nassau County by classifying them as commercial land. The bill would ensure that vacant lots are taxed at the residential rate if they adjoin a property with a home and both have the same owner. In 1981 Articles 18 of the New York State Real Property Tax Law was enacted to categorize properties in Nassau County into four classes, with Class I being residential, and Class IV primarily commercial and industrial. Vacant residential land was included in the Class IV category. In 1989, the law was amended to allow vacant lots to be taxed as residential in most of New York City. Such a change, however, was not implemented for Nassau County. Commercial property has a higher tax rate than residential property. As of January 28, 2003, the bill has been referred to the Committee on Real Property Taxation. If enacted the bill would take effect immediately and will be deemed to have been in full force and effect on or after December 31, 2002.

Audit Finding (16):

CLT appraised vacant properties larger than 2,000 square feet as if they could be developed, which created a significantly higher market value for the properties. Local zoning laws set minimum building lots at 6,000 square feet in most areas of Nassau County. The Chair of the Board of Assessors instructed CLT to address the factors that led to the material increases in valuation on vacant lots. CLT I re-evaluated all vacant properties between 2,000 and 6,000 square feet and the market values were reduced if the properties were without the potential for development. Although this lowered the assessed market value for many of the properties, it did not affect the applicable tax rate. The proposed amendment to the R.P.T.L. however would remedy the tax rate problem.

CLT's revaluation resulted in major increases in the value of these properties. However, it did not inform the Chair of the Board of Assessors of the issue, for timely resolution, until September 2002, instead leaving it to individual property owners to protest. This resulted in considerable confusion, concern, and worry to the owners. If CLT had advised the County six to twelve months earlier, the problem could have been resolved in a more timely manner, avoiding the distress to property owners.

Recommendation:

The assessor should emphasize to the State Legislature the importance of the enactment of this bill to alleviate the significant increase in the tax burden. Rather than just permitting undeveloped residential land that is adjacent to, and has the same owner as,

Findings and Recommendations (Continued)

the developed residential land, to be taxed at class I residential rates, the law should permit all vacant residential land to be taxed as class I.

The county's Project Manager should review and comment on the revised values.

Findings and Recommendations (Continued)

Waterfront Properties

Background:

We had intended to perform testing of residential waterfront property, and requested a sales ratio report from the county's Project Manager for this purpose. However, during the course of the audit, numerous comments from media and other sources regarding problems with CLT's revaluation of residential waterfront properties were received. Most of these comments indicated that such properties had been undervalued during the revaluation process. Newsday noted in a November 24, 2002 article that many waterfront homes were assessed lower than their recent sale prices. On November 15, 2002 members of the Board of Assessors questioned the CLT president and staff regarding this issue. As a result of the discussion, CLT agreed to re-examine waterfront properties on a parcel-specific basis. CLT has contended that its waterfront assessments are statistically valid, given its mass appraisal system based upon computer models. Such properties can be more difficult to value due to the scarcity of similar sales to use in comparison and the wide variety of types of waterfront (bay, canal, lake, etc.)

Audit Finding (17):

CLT's December 19, 2002, schedule of Nassau County Waterfront Parcels with an Increase in Value listed 575 properties that had been increased in value after CLT's review. Values of these properties, originally determined at \$360.5 million, were revised to \$426.4, an increase of over \$65 million or more than 18%. Changes in value ranged from a \$100 increase for a property in Woodmere to a \$2.7 million increase for a Great Neck property. Despite repeated requests, CLT's updated database was not provided to our office until February 3, 2003. Our objective was to analyze the changes by reviewing their justification and supporting documentation, understand the basis for the original valuations, and determine appropriateness of the changed values.

We determined that the list of 575 waterfront properties included those that were changed for reasons other than CLT's re-examination of waterfront valuations. At a February 24, 2003, meeting, CLT informed us that the list they provided was not a list of waterfront properties whose values changed as a result of review, but instead a list of waterfront properties that changed for any reason. These changes included new construction, changes in type of waterfront, and combinations of lots. They informed us that they could not identify and isolate those that changed as a result of review and that each property would have to be researched individually. They suggested that if we eliminated the smallest and largest changes the remainder would represent valuation changes as the result of their review.

An analysis of the middle 80% (460 properties) of the properties on the list revealed that they were increased a total of \$32.5 million, an average of 12%. Had their not been a public outcry, this incremental property value may have escaped taxation.

Findings and Recommendations (Continued)

Recommendation:

It is essential going forward that the Department of Assessment monitor waterfront sales and the corresponding computer models closely, to ensure that values are accurate and fair. If the hiring of in-house or outside experts in computerized residential valuation methods is necessary to achieve this, the county's administration must ensure that the necessary funding is in place to allow the department to achieve this goal.

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Auditor's Response to CLT's and the Department of Assessment's Reply

Audit Finding 1 Inadequate Review of Commercial Valuations

Most commercial properties in Nassau County file certiorari grievances, and therefore, it is of paramount importance that the county be able to defend its values. Our report does not take issue with CLT's and the Department of Assessment's response that it was necessary to apply adjustment factors; we simply noted that the basis for all adjustments should be documented. We were provided with no evidence of documentation; in fact, the Department of Assessment's statement that all adjustments were documented is contradicted by a CLT e-mail stating that documentation of the adjustments does not exist.

CLT indicates that the appraisers applied their judgment when the parameters of the model did not fit the property at hand. Our consultants, Powers and Marshall, agree with CLT's response that adjustments are part of the appraisal process. The problem P&M found was that CLT did not respond to requests as to how and by what rationale the adjustments were made. No explanation was given as to what constitutes a "difference" from the "typical".

CLT notes that edit reports were run during the informal review period that may have resulted in value changes on properties that did not have informal review meetings. As part of our audit procedures, we attempted to determine the reasonableness of changes to value made by CLT. We sent an e-mail on December 17, 2002 stating: "We would appreciate it if for those properties with large variations (10% or greater) between the preliminary value and the final value, an explanation were included. For example, was the valuation change due to a change in square footage, rents, expenses, vacancy, cap rates taxes rates, etc. We were studying these properties based on the old assumptions and now need to know what caused the value decision to change." CLT did not provide us with copies of edit reports that may have enabled us to accomplish this audit step. CLT responded in a December 19, 2002 e-mail that there was no computer program that could provide this information, but offered that notes were maintained in those cases where the change was made as the result of a hearing.

CLT further stated that, "we made changes to properties even though the property owner did not request an informal meeting. If new, additional data came to our attention from any source, we looked at the value of the property and, if appropriate, made a change whether it was an increase or a decrease." CLT failed to provide any documented evidence of the basis/justification for the change.

CLT commented that the findings were focused on adjustments to rents and expenses and not on the validity of the final values. However, almost all commercial properties were valued by CLT using the income method. It is appropriate to focus on the two most substantial components of the final value under the income method, the rental income and expense assumptions.

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CLT provided us with extracts of the 1200 leases they used in the appraisal process, however, this data was not useful on a property specific basis. As part of our review of selected 'high end' properties, we asked CLT to provide us the basis for the rentals used, such as income and expense statements from tenants and leases used as comparables. CLT did not provide the information requested. Powers and Marshall wrote, "Providing extracts of 1200 leases does not explain how even one was analyzed and compared to the subject properties."

The Department of Assessment's response that all adjustments were documented (including who made the adjustments and the reason for the adjustment) is not supported by CLT's response to our request that the basis for the adjustments be provided for specific sample properties. CLT responded on January 6, 2003 to our request as follows ". . . You also continue to conduct your audit in the mind-set that the appraisal of real estate is a mathematical function for which every evaluation and conclusion can be substantiated with a chart or graph or table. You made a comment in the latest email request that... as auditors you try and rely on documentation as evidence. Your documentation is the C/I tables I delivered to you for the base level of valuation. What you are suggesting is that there should be a table for every adjustment to any of the valuation factors. This evidence does not exist. . . "

Audit Finding (2) Valuation Changes

CLT and the Department of Assessment's responses fail to address the audit finding that major overstatements of value escaped detection until a hearing was held with the property owner.

When we questioned the reasons for large changes on eleven properties, we found that only two properties valuations were changed by CLT without a hearing and nine were changed as the result of hearings. Only 3.6% of commercial properties were subject to informal hearings, and concern exists that similar large over-valuations may exist among the 96.4% of property owners who did not seek hearings.

We were unable to assure ourselves that the "review" process referred to in their response took place. We requested that CLT provide the reasons for changes between initial property valuations and final property valuations for those commercial properties that changed by more than 10%. CLT responded, "There is no computer program available to produce your request from the system."

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Audit Finding (3) Residential Comparable Sales

We re-emphasize that a residential property's school district is a very important factor in any purchase decision and has a significant influence on property values. It should be a major factor in determining neighborhood boundaries.

Audit Finding (4) Income and Expense Information

CLT commented that there is ample documentation to reach a conclusion concerning the adequacy of values and highlighted the sales ratio data and the income and expense information. However, our audit concentrated on the valuation of large properties because the county's exposure to refunds is higher on those properties. CLT's Sales Ratio Report for commercial sales included 746 sales, but not one was for an amount over \$10 million. Therefore, we did not rely on sales ratio testing to assure ourselves that large properties were reasonably valued.

Income and expense information was provided; however, CLT did not provide adequate justification for the assumptions used, such as identification of comparable leases and the basis for the adjustment factors utilized.

CLT indicated that ORPS was satisfied with the level of documentation utilized. Field Audit requested that the Project Administrator provide us with copies of any correspondence from ORPS. This should have included documentary evidence of the agreement between CLT, ORPS and the Department of Assessment. He did not provide us with any evidence, stating that 'All communications from ORPS to myself were via e-mail. Due to limited e-mail capacity, I do not save messages.'

We believe that the income and expense information should have been an invaluable source of data. It is disconcerting that the Department of Assessment would conduct a full mailing along with a follow up mailing, only to conclude that the lack of response from property owners did not hinder, nor impact, the accuracy of the values determined.

Our finding was that the Assessor did not pursue the imposition of fines for failure to respond even though there was potential revenue of \$7,500,000. We did not recommend that the Assessor prosecute cases, levy and collect penalties. Rather, the imposition of fines could have been pursued by the Department of Assessment through the County Attorney's Office. The imposition of just a few fines might have been enough to promote a higher response rate.

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Audit Finding (5) Permits and Interior Inspections

We maintain that the inspection of properties open to the public would have been beneficial to the valuation process. As an example, CLT did not include the rental value of carts and kiosks at shopping malls, stating, "Non-conclusive inventory data precluded rental application for items that change and move constantly." A walk through of the malls would have enabled CLT to determine the number of carts and kiosks. CLT recognized the importance of interior inspection in their data collection manual by requiring data collectors to report information that could only be discernable through an interior inspection.

Our comment on permits found that the Department of Assessment and CLT did not establish a control mechanism, such as a numbering system, to assure that all permits received by the Assessor were turned over to CLT and that CLT acted upon all permits. While in the normal course of business, the Department of Assessment enters permits into the system, during a portion of the reassessment project CLT informed us that permits were sent to them for entry. We were unable to assure ourselves that this process was properly controlled. CLT's response did not address this main issue. We did not comment on CLT's performance in the processing of permits after they were entered into the system.

Audit Finding (6) Shopping Malls

Auditor's Comment

CLT's response indicates that rentals were derived from rental patterns established from existing appraisals, income data derived from historical leases, and secondary published statistics. We requested the basis for the rental per square foot for each category of space. The lease data used to determine subject property rentals were never identified to us by CLT.

In response to our commenting that cart and kiosk rentals were not considered in rental income, CLT wrote, "Non-conclusive inventory data precluded rental application for items that change and move constantly". This is the type of valuable data that could have been obtained by the interior inspection of a property open to the public.

Powers and Marshall's review of CLT's data found no evidence that tenant contributions for real estate taxes, electricity and common area maintenance were not included in rental income. CLT responded to this comment with "Economic rental units applied to each property use were estimated on a gross basis. Rental units were not net of taxes,

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electricity, or CAM, but were units inclusive of these occupancy costs. Any additions to these rental units would result with unsubstantiated market values.

Powers and Marshall reviewed CLT's response and wrote to us, "This information is precisely what we requested and never received. There is no indication that rents are gross and inclusive of taxes, electricity and CAM. If this is so, why were separate rentals given to "mall" areas and "retail" stores? If economic rent includes these items, there is no need for a rental to be placed on common areas. We asked for retail leases and adjustments made, we never received an answer."

Powers and Marshall commented that vacancy rates were well below market. CLT responded that "vacancy and collection losses were based on the high occupancy levels for Roosevelt Field, Sunrise Mall and Green Acres. These factors were not based on statistics that were generic in nature that reflect vacancies for less desirable properties."

Powers and Marshall reviewed CLT's response and wrote to us: "There is no analysis which indicates how "high occupancy levels" was ascertained. If they did not have income data, how did they know occupancy was high? Absent this data, the marketplace is the deciding factor. Their overall vacancy rate for the malls is below market. Their analysis indicates that the vacancy rates were as follows: Sunrise Mall is 6.1%; Green Acres 6.4%; and Roosevelt Field 7%. There was no market support for these rates." Without CLT performing interior inspection of the malls and without their obtaining income and expense information, we agree with P&M that occupancy rates appear unsupported.

CLT disagreed with Powers and Marshall advice to us that CLT's expense ratios were inconsistent between malls. As noted in the report, 10.8% was used as the expense rate for mall stores at Roosevelt Field with a higher rate of 13.5% used at Sunrise Mall. Powers and Marshall reviewed CLT's response and informed us, "We asked for but never received the supporting data. There is no market support for this data."

Powers and Marshall advised us that adjusted rentals were 20% - 30% below market. CLT responded that the rents were based on market. Powers and Marshall reviewed CLT's response and wrote, "Rentals rates for the malls was requested and never provided. We agree wholeheartedly that "this data is the foundation for determining fair and reasonable economic rental units". This is why we asked for data on mall rents. Review of the appraisals does not reveal any source material for their rentals."

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Audit Finding (7) Golf Courses

CLT responded that various depreciation factors were applied based upon age. However, as noted in the report, the same 75% depreciation factor was applied to 29 of the 33 clubs.

CLT indicated that they supplied land data to the auditors. We found that land sale data supplied did not appear to support the universal application of \$50,000 per acre. The data consisted of:

September 1, 1997	East Hampton	former farmland	\$77,448/acre
January 15, 1999	East Hampton	former farmland	\$56,618/acre
August 3, 1998	Baiting Hollow	former farmland	\$23,669/acre
August 17, 2000	Baiting Hollow	former farmland	\$18,492/acre
March 23, 2001	Southhold	former farmland	\$32,642/acre
May 15, 1995	Rockland County	closed golf course	\$48,485/acre
September 1, 1994	Westchester County	50-100 acres wetlands	\$28,877/acre
September 30, 1994	Westchester County		\$28,846/acre
March 23, 2000	Middle Island	existing 27 hole course	\$47,877/acre

It can be seen by the data supplied by CLT that land values varied greatly.

We commented that the income method of valuation was not used and CLT replied that they did not receive any income statements and that there was little available comparable operating data to formulate meaningful income approach value estimates. This reinforces the importance of our audit comment 4 in which we found that property owners income and expense information was not pursued to the full extent of the law.

CLT believes our stating that Judge Frank s. Rossetti ruled that the club should be valued using the income method is perhaps misleading. The judge stated that this decision should be a guideline for future cases. The following quotations from the decision further support the use of the income method:

- “The Court also observes that said old golf course cases were decided when the cost approach was more widely and uncritically utilized. The Court of Appeals has since made clear that this method, with its generally large and often largely subjective depreciation estimates, is to be relied on only when other methods cannot be. . . .”
- “Finally, as noted, petitioners proof was sufficient to find that income analysis are typically relied on by buyers, lessees and owners in evaluating golf courses.”

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- “. . . petitioner's evidence showed that the income approach was how the market valued a golf course and, while said counsel would seemingly have it otherwise, a golf course is what we are valuing here. Accordingly, given the defects in respondents' approach, the absence of otherwise usable whole-to whole market data, the preference for the income approach for income producing property in general and the market reliance on such an approach for golf courses in particular, we find no error in petitioner's utilization of the income approach.”
- “Having found petitioner's income approach a proper method, the final determination is the reasonableness of the figures used.”

Our audit questioned the valuation of almost all golf course land at \$50,000 per acre. CLT responded, “Adjusting land values based upon neighborhoods would be highly subjective if not outright improper in mass appraisals based upon the spirit of the Rossetti decision”. Nassau is a very diverse county, with land in different neighborhoods having different values. We do not believe that land in all neighborhoods should be assigned the same value.

Powers and Marshall reviewed CLT's response regarding land values. P&M wrote, “CLT's response that “adjusting land values based upon neighborhoods would be highly subjective if not outright improper” not only belies the appraisal process but their own methodology of adjusting for neighborhoods. Further to use the remote sales in other counties without comparing Nassau's “Gold Coast” to Baiting Hollow, Southold and Rockland County is puzzling.” We concur with P&M, farmland in Riverhead is not the equivalent of acreage on Nassau County's north shore.

Audit Finding (8) Marinas

The State equalization ratio as determined by ORPS was used as a basis of calculation of fair market value.

Powers and Marshall reviewed CLTs' response and wrote:

“CLT agrees that there was sufficient data upon which to value a specific marina but not when doing a mass appraisal. This is contradictory to their valuations of other income producing properties wherein they have had appraisals made by “local” appraisers. It appears that they could have appraised each marina but did not, for whatever reason.” The third party appraisals supplied by CLT for marina valuation use of the income method of valuation.

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Audit Finding (9) Movie Theaters

Auditor's Comment

Contrary to CLT's assertion, we never stated that Movie Theaters were complex properties.

We indicated that the assessed values of movie theaters were reduced by an average of 8.1%. CLT indicated that, based upon their calculations, the decrease was 2.47%. We calculated the change in values of properties by comparing the Department of Assessment's assessed value, divided by the NYS Equalization rate, to the fair market value determined by CLT. We stand by our calculation.

Clearview Herricks Theater is a stand-alone building. We urge the Department of Assessment to follow up on CLT's check of the other properties and, if necessary, request the Assessment Review Commission to make adjustments. If any changes were necessary, they should have been made before the tax roles became final.

Powers and Marshall reviewed CLT's response and noted that the number of seats and screens was readily available. However, "CLT analyzed the theatre data by square foot, by seat and by screen, none of this was considered. Only retail non-theatre comparables were used. Which comparables and how they were adjusted to the subjects is not explained." Our review supports P&M's conclusion. While the comparable properties included screen and seat information, the properties appraised by CLT did not.

In a December 3, 2003 e-mail, we requested CLT to provide any comparable leases they had on the subject theaters used to value the theaters. We also asked for the basis and justification for any adjustments made, but CLT did not provide this information.

Audit Finding (10) Office Buildings

Auditor's Comment

A December 24, 2002 e-mail to CLT requested that they provide us with the basis of rent per square foot for each category of space, along with the source of the rental factor adjustment. In the same e-mail, we asked "Does the indicated rent include real estate taxes, common area maintenance, pass-throughs, electricity, etc.?" This information was not provided by CLT.

Powers and Marshall reviewed CLT's response and advised us that: "EAB Plaza is a prime building, but not worth a rental differentiation of \$11.25 per square foot or 56.8% more than 900 Stewart Avenue.

Appendix 1

Auditor's Response to CLT's and the Department of Assessment's Reply

Powers and Marshall reviewed the list of improved office building sales included with CLT's response wrote, "There is no support for the value conclusion based upon sales. The offer of Sales Nos. 24-33 are not comparable. EAB Plaza (963,927 Sq. Ft.) and 900 Stewart Ave. (256,154 Sq. Ft.) cannot be compared to 10,000 to 32,862 square foot buildings. There is no basis for the values found by the sales approach." We reviewed the list of sales CLT provided as sales price support and found the properties not comparable. They were much smaller than the subject properties.

Audit Finding (11) Hotels

We sent an e-mail to CLT on December 3, 2002, requesting income and expense statements provided by the owners, the basis and justification for any adjustment factors applied and copies of any inter-hotel comparisons prepared. CLT did not provide us with any of these details. Their response still does not address the basis for the adjusted rental used.

Powers and Marshall commented that the rent adjustments used by CLT were inconsistent and unfounded. It reviewed CLT's response to this observation and wrote, "The question of rent adjustments of +10% for Garden City and -19% (not 10%) for the Marriott was not the dollar amount but the basis for the adjustment. This is still not answered. Powers and Marshall also pointed out that "Their stated adjustment for the Marriott of -10% to \$162.00 does not coincide with the figure that I have of \$180 - \$34.20 = \$145.80. A 19% downward adjustment". We reviewed CLT valuations and confirmed the amount quoted by P&M.

Powers and Marshall also questioned CLT's conclusion that the total income from the Garden City Hotel is 82% higher than the Marriott. Powers and Marshall wrote "The income and expense numbers supplied to us by CLT do not agree with the assumptions cited in CLT's response". They noted, "There appears to be a discrepancy in the figure. We have total income for the Marriott of \$36,972,809 (they say \$36,542,300) and \$29,704,358 (they say \$19,657,440) for Garden City. In either event they do not respond to the question they only refine the figures." We reviewed CLT valuations and confirmed the amount quoted by P&M.

Audit Finding (12) Tax Rates

CLT had discrete tax rates available for every property and chose not to use them. The income method of appraisal requires the application of subjective factors such as appropriate rents and expenses. When actual data is known, such as square footage and

Appendix 1

Auditor's Response to CLT's and the Department of Assessment's Reply

tax rates, it should be utilized. We stand by our recommendation that correct tax rates be used for valuation purposes.

Powers and Marshall reviewed our audit finding and CLT's and the Department of Assessments' response. P&M advised us:

“The auditor is correct. The income approach is paramount in the valuation of investment properties and particularly for assessment and court purposes. The leverage produced by a point or two in the capitalization rate can produce dramatic results in the valuation. A 13%, or as in the illustration, a \$40± million difference in market value is not to be taken lightly. The sales comparison approach carries little weight unless it is the subject property itself, within a current time-period.”

CLT clarified that they chose to use an automated system by using tax rate files supplied by the county rather than to use the conventional system of applying one effective tax rate for each neighborhood by use type. Regardless of whether the system could accommodate the tax rates, the finding remains that CLT did not take into consideration the full tax burden on each property.

CLT states that the number of commercial sales was sufficient to derive statistically acceptable sales ratios. Our audit concentrated on the valuation of large properties because the county's exposure to refunds is higher on those properties. CLT's Sales Ratio Report for commercial sales included 746 sales, but not one was for an amount over \$10 million. Therefore, we did not rely on sales ratio testing to assure ourselves that large properties were reasonably valued.

Audit Finding (13) Outliers

Outlier reports should have been maintained as evidence that proper quality assurance procedures were followed.

CLT maintains that it reviewed all outlier reports with the Department of Assessment and the count consultant. Our audit finding was that CLT failed to provide us with copies of the outlier reports mentioned in the subcontractors report. CLT supplied only one sample report. We requested an explanation of the report, but did not receive a response. We stand by our finding that there was no audit trail that could be followed to ensure that proper quality control procedures were followed.

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Auditor's Response to CLT's and the Department of Assessment's Reply

Audit Finding (14) Integrity of the Database

The contract required that "ORPS will advise the Project Administrator as to the applicability of these edits and the final edits will be mutually agreed upon by the Contractor(s), Nassau County, and ORPS. These edits will remain frozen until a change becomes necessary and has been agreed upon by the three parties." We were not provided any evidence that these agreements were reached and documented.

Our recommendation focused on ensuring that the integrity of the database was maintained. We were not provided with enough detail to assure ourselves that the Department of Assessment's database was properly transferred to CLT's system.

Audit Finding (15) Contaminated Properties

As part of its mass appraisal process, CLT made wide use of valuation adjustments for influence factors based upon the professional judgment of the appraisal. This same concept should have been applied to contaminated properties. The application of even a modest downward adjustment for properties known to be contaminated could reduce the refunds that will be necessary when the property owners grieve their assessments.

CLT stated, "To make blanket contamination adjustments for all properties listed on incomplete lists would have cost the county millions of dollars in unnecessary reductions." The reductions would not cost the county "millions of dollars in unnecessary refunds." Reductions in assessed values will cause tax rates to increase, but not cause refunds. In contrast, refunds are only granted in those cases where properties are over assessed. Downward adjustments to contaminated properties could only serve to reduce the need for future refunds.

We determined that the identity of at least some contaminated properties could be ascertained from the Internet. In some cases, those specific details that the Department of Assessment and CLT require to analyze the contaminants' impact on value are also available.

The New York State Department of Environmental Conservation ('DEC'), Division of Environmental Remediation's October 2002, 'Quarterly Status Report of Inactive Hazardous Waste Disposal Sites in New York State' provides site information including:

- health risk status;
- status of remediation plan; and
- amount encumbered or spent on site cleanup.

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Auditor's Response to CLT's and the Department of Assessment's Reply

Additionally, the EPA Superfund website identifies 45 hazardous waste sites in Nassau County and includes:

- classification of contaminants;
- financial obligations and commitments for remedial action; and
- justification for remedial action taken.

Therefore, in some cases much of the information that CLT and the Department of Assessment cited as necessary to properly value contaminated properties, such as: the type of contaminant; extent of contamination; date the incident occurred; projected period for remediation; and the estimated cost for the remediation, is available.

However, as our audit disclosed, CLT valued properties without regard to contamination. The failure to do so is causing a continuing loss to the county. On properties where the county has become the de-facto taxpayer, the county will continue to pay taxes on overstated property values. We obtained a list from the Treasurer's Department of contaminated properties upon which the county holds a lien. This list, which has not been updated since 1999, and may not be complete, included 18 properties with an annual tax burden of approximately \$800 thousand. The fact that the owners have abandoned these properties and that the County has found no market for the properties, should be indicative of a significant impairment of value.

Owners of contaminated properties that have continued to pay their taxes may grieve their assessments and obtain certiorari judgments against the county. Proper consideration of the impairment of value would substantially reduce the county's annual cost of tax payments to the towns and districts.

As with high-end properties, CLT realized their uniqueness and afforded them special treatment in their valuation. CLT's appraisers used their professional judgment in applying an 'adjustment factor' or an "influence factor" to some commercial properties. We thus stand by our recommendation and reiterate that the effort to both identify contaminated properties and properly adjust their impaired values should be made.

CLT and the Department of Assessment should have taken a proactive role in the valuation of contaminated properties. They should have identified the contaminated properties and wrote a letter to the owners to explain that their property was being re-assessed, requesting a meeting at which the owners could present any information relevant to a reduction in value.

Just from the contaminated properties brought to the Department's attention, there is a continuing loss of \$800,000 per year. Had the Department of Assessment taken the appropriate steps in identifying those contaminated properties where the county is the de-facto taxpayer, significant savings could have been achieved.

Appendix 1

Auditor's Response to CLT's and the Department of Assessment's Reply

Audit Finding (16) Broadway Mall

The initial overvaluation of \$ 30 million of the Broadway Mall was not explained in the auditee's response. We stand by our finding that the quality assurance appears to be deficient. There are no assurances that this error would have been detected if the owners of Broadway Mall had not requested a hearing.

CLT's comment regarding the equalization rate is irrelevant because it does not provide any explanation about the overvaluation error of \$ 30 million. For clarification purposes, we had used the county stipulation rate of .064 in order to determine the fair market value agreed upon between the petitioner and the County Attorney's Office because it was the rate used in the settlement process.

CLT noted that the Powers and Marshall appraisal of the Broadway Mall (prepared for certiorari purposes) has not been referenced in the auditor's gauging of market value, as assumed to be set by a tax certiorari proceeding. We did not refer to Powers and Marshall's appraisal because, having appraised the Broadway Mall in the past, they recused themselves from commenting on this property.

With regard to the required write-ups for the specialty property, we fail to understand why CLT only provided us with a ½ page report covering the two cogeneration plants, when CLT had a 24-page report.

Audit Finding (16) Residential Vacant Land

This was not done timely and caused significant hardship to taxpayers.

Audit Finding (17) Waterfront Properties

We acknowledge the department's commitment to improve the accuracy of the valuations.



Cole·Layer·Trumble

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Property Tax Solutions · Mass Appraisal Systems and Services ·

Mr. Howard Weitzman
County Comptroller
240 Old Country Road
Mineola, New York 11501

Dear Mr. Weitzman:

This letter and the accompanying attachments are in response to the “Draft Audit of Cole·Layer·Trumble Company: Countywide Reassessment Project” issued by Jane Levine on March 6, 2003. Let me begin by stating that, despite the negative slant of the commercial audit, the entire audit team expended considerable effort in the preparation of the audit. Further, the residential audit team deserves recognition for their effort to produce an objective and unbiased audit.

CLT contends that the commercial audit is severely flawed due to a fundamental lack of understanding of mass appraisal on the part of the commercial audit team and the fee appraisal firm they used as a consultant. This lack of understanding apparently led to the omission of the most critical objective of a mass appraisal, the accuracy of the final values turned over to the client. In the rare instances where values are mentioned, the audit acknowledges that the final values are well within industry standards and contractual requirements.

The commercial audit was almost exclusively focused on mass appraisal processes, procedures and methodologies. It was apparent from day one that the audit team possessed no prior knowledge or experience in these or any other areas of mass appraisal. This problem was compounded by the fact that the audit did not start until the project was over two-thirds complete, well after many of the processes examined had been long completed. These concerns are best restated in the enclosed letters that I sent to you on August 30, 2002 and September 24, 2002. We have to assume this is one of the reasons that the audit took eight months to complete. CLT and its subcontractors spent thousands of person hours in meetings with and responding to requests from the audit team. Throughout the many months of the audit, the identical questions were asked and answered time and time again, indicating a continuing struggle on the part of the commercial audit team to understand the basics of the subject matter.

The aforementioned fundamental lack of understanding presumably led to the decision to exclusively examine specialty and high value properties. Mass appraisal valuation systems best predict values closest to the “norm.” Specialty and high value properties require additional examination and analysis from appraisers. CLT, Michael Haberman Associates, Inc., and Smith & Salerno Valuation Services recognized this, identified

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these properties early in the project, and assigned appraisal experts with specific relevant knowledge and experience to appraise these properties. Numerous meetings were held between the companies throughout the valuation and review process to track the progress of this effort and to validate the results. The suggestion in the draft audit that these properties did not receive enough attention is absolutely without foundation.

The commercial audit team's exclusive focus on specialty and high value commercial properties prevented them from determining if the processes and methodologies they were auditing were properly applied to the vast majority of commercial properties. Instead, the focus was directed toward the extent to which those processes and methodologies were applied to those specialty and high value properties, which, because of their distinctiveness, required and received the application of additional appraisal efforts beyond what the average commercial property required.

Another concern is that the commercial audit team elected to hire a fee appraisal firm to provide not opinions of value, but opinions about the application of mass appraisal procedures and valuation methodology. CLT and our subcontractors were unaware of the participation of Powers & Marshall until we received our copy of the draft audit. Our understanding is that they have no mass appraisal credentials. This, coupled with the fact that they had no direct contact with CLT and its subcontractors and presumably received all their information from the commercial audit team, makes their observations and conclusions highly suspect at best. CLT has additional serious concerns regarding the Powers & Marshall role in the audit which are expressed in an addendum to this letter.

The commercial draft audit report also makes several criticisms of CLT's lack of utilization of recent certiorari settlements in establishing the reassessment market values. As stated in our response to Audit Finding (16), CLT and its subcontractors did use appraisals and recent certiorari settlements as "additional information" in determining values. However, as is endemic in the appraisal profession, all appraisers will not always agree with another appraiser's conclusions or opinion of value. Additionally, a settlement in certiorari proceedings is not an indication of the actual true market value of a specific property; rather, it is a value that both parties can agree on to avoid further proceedings.

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The Nassau County Reassessment Project is arguably the most audited project in the history of the mass appraisal industry. Expert auditing of the project by Project Administrator Jim Culver, as well as the staff of the New York State Office of Real Property Tax Services, started before the commencement of the project and continued past the completion of the project. Additionally, CLT conducted three internal quality audits over the course of the project culminating in the Mass Appraisal Report referenced in the draft audit.

No project of this magnitude can achieve perfection. But by industry and contractual standards, this was an excellent project.

Sincerely,

Bruce F. Nagel
President/CEO
Cole•Layer•Trumble Company

BFN:das

Attachments

RESPONSE

to the

Field Audit Report Draft A Dated 3/6/03

This document is presented in response to the field audit report from the Nassau County Office of the Comptroller dated March 6, 2003. The audit was performed on the Nassau County Property Reassessment Project completed in December 2002.

March 27, 2003



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Comments on the Findings and Recommendations of the Field Audit Report Draft A

Audit Finding (1): Inadequate Review of Commercial Valuations

Auditor's Recommendations:

The basis and justification for large adjustments from CLT's neighborhood tables to rental rates, expense rates, vacancy rates, etc. to specific properties' income and expense projections should be documented. Most large commercial properties in Nassau County are grieved annually. As such, CLT should provide documentary evidence as to how the valuation adjustment factors were derived. This information might be helpful to the Assessment Review Commission and to the County attorney in their review or defense of the final values.

CLT's Response:

The contention that CLT's quality control process "appeared to be deficient" is unsubstantiated and incorrect. Adjustments to the initial valuation factors for a specific property during the review process are an expected and integral part of the mass appraisal valuation process. Valuation tables are established for each neighborhood based on the most "typical" property in a neighborhood for the defined property uses. Whenever a subject property differs from the "typical" or norm established for the specific neighborhood, an adjustment to one or more of the valuation factors is necessary. The more a property differs from the "typical" property established for the neighborhood, the greater the warranted adjustment.

The appraisers assigned to the project have extensive knowledge of market values in Nassau County and applied their judgment when the parameters of the model did not fit the property at hand.

Various edit reports were worked during the informal review period that may have resulted in value changes on properties that did not have informal review meetings. This was another quality control measure the audit did not consider.

The findings were focused on adjustments to rents and expenses and not on the validity of the final values which, as stated in the audit, were well within industry and contractual standards and requirements.

High-end properties were segregated from the daily workflow and were valued by the subcontractor's most experienced appraisers, in detail. The auditors were provided with over 1,200 leases along with all of the other documentation used as the basis for establishing the neighborhood valuation models.

Audit Finding (2): Valuation Changes

Auditor's Recommendations:

The Department of Assessment should review the evidence presented and reviewer's notes from the hearings related to these properties. A determination should be made if the factors presented at the informal hearings that led to these valuation changes should be applied to similar properties that were not the subject of informal hearings. If so, their assessments should also be adjusted to avoid future certiorari refunds.

CLT's Response:

Regarding the auditor's recommendations, CLT already completed this review during the informal meeting process. Changes were made to values for properties in several neighborhoods throughout the county where no meetings took place or were requested. New value notices were mailed to affected property owners who were given an extended timeframe to appeal the new values.

Section 4.19 has been addressed in the turnover documentation which indicates CLT has complied with this provision.

The audit report states that in the case of Jackson Terrace, a certiorari judgment was issued and this information was readily available to CLT and should have been considered in our valuation. Michael Haberman requested this information from the legal department and it was never received. It also did not show up on any of the lists provided by the legal department.

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Audit Finding (3): Residential Comparable Sales

Auditor's Recommendations:

CLT has provided the Department of Assessment with the Integrated Assessment System. The Department will have the responsibility of refining the information in the system annually by identifying and tracking new sales, updating the models, changing coefficients. As CLT's staff observed, this is "not a simple, quick, easy process." Changes to one variable in a model will affect the other variables. It is essential that the Department devote adequate resources, time, and effort to the project, perhaps with assistance from local experts.

The Department of Assessment should integrate the GIS system with the CAMA system so that physical distance between properties can be considered in the selection of comparable properties for future revaluations. More precise use of school district boundaries should be considered in the definition of neighborhoods and models.

CLT Response:

The update contract approved by the County Legislature on March 24, 2003 contains provisions for an upgrade to the IAS software that will permit the calculation of the physical distance between the subject property and its comparables. It is important to note, however, that the efficacy of this ability will depend on the accuracy of the GIS data and the fact that just because a sale is close "as the crow flies," does not automatically translate to close as a comparability measure. Physical demarcations such as expressways, waterways or perceived socio/economic factors can often mean that the closest potential comparable in a physical distance sense may not be the best comparable from an appraisal standpoint.

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Audit Finding (4): Income and Expense Information

Auditor's Recommendations:

As part of ongoing annual revaluation, Department of Assessment should utilize the provisions of the law to induce property owners to respond to the income and expense information requests. Language as contained in the Administrative Code relating to the "certifying sentence" as well as the possible penalty which could be imposed for "...the making of any willful false statement of material fact...", should be incorporated onto the "Data Verification Report" as well as any accompanying cover letter. This inclusion will enable greater assurance as to the accuracy of the information contained therein, as well as enable the imposition, and collection of possible penalties for failure to respond.

Income and Expense information received from property owners should be input into a database as a resource for the trending of neighborhood tables. The Assessor should accumulate and analyze the data received for the purpose of updating valuation models for the annual valuations. This data should be used in addition to the Income and Expense information gathered by the subcontractors to develop more comprehensive valuation models.

The Department of Assessment's website should be updated to allow for property owners to download and allow electronic filing of income expense forms. This would reduce the cost in mailing and processing these files on an annual basis.

CLT's Response:

The audit report refers to Section 4.11.2 of the RFP, which reads, "Nassau County and the Contractor(s) [CLT], with the advice of ORPS, will mutually agree on the amount of income and expense data that is complete and representative of the universe of commercial/industrial properties." The report further states that auditors were not able to ascertain from the project manager whether this requirement was performed. According to the report, without the assurance that the amount of income and expense data obtained was "complete and representative, we cannot determine whether the income approach used by CLT resulted in accurate valuations of the 13,056 income producing properties."

There is ample documentation to reach a conclusion on the adequacy of CLT's values. Two important ones are (1) the sales ratio which is in the audit report, and (2) the income and expense data which was given to the auditors.

In compliance with Section 4.11.2 of the RFP, CLT, the project manager, representatives of Michael Haberman's and Matt Smith's offices met with Mr. Jeffrey W. Jordan, MAI, Chief Appraiser, ORPS and Bruce W. Sauter, IAO, Core Process Manager, Valuation, ORPS on several occasions to assess the amount and adequacy of the income and expense data used by CLT. There were also several follow-up phone calls and the submission of additional data to ORPS. It is unclear if there was any due diligence on the auditors' part to talk with these two high-level representatives of ORPS, but the conclusion of these ORPS representatives was positive. In fact, in their analysis of the adequacy of the income and expense data, they concluded that it was some of the best, if not the best and most comprehensive detail of supporting documentation they had ever seen on a reassessment project.

Appendix 2

Audit Finding (5): Permits and Interior Inspections

Auditor's Recommendations:

The Assessor should coordinate with the Assessment Review Commission and the county attorney to arrange inspections of those properties that have been grieved. These inspections will help enable the Assessor to maintain its database on an up-to-date basis, leading to more accurate annual revaluations.

The Assessor should consider revising its internal control procedures to assure that permit information is accumulated in a traceable, reportable format. Reports could then be generated that match permits received with the individual related properties and any associated changes in description and/or value, to ensure that all permits are evaluated and accounted for.

CLT's Response:

"Request for Interior Inspection" Letters

Following is a count of letters mailed to property owners requesting an interior inspection and the number of replies resulting in an interior inspection:

Property Type	# Letters Mailed	Replies/ Inspections Made
Residential	10,636	438
Commercial	1,611	252

CLT also made use of GIS data; aerial photographs; MLS listing data; relevant information available on the Internet; local and national publications containing Nassau County data; and the City of Glen Cove's property cards.

INTERIOR INSPECTIONS

Although the audit report suggests that "the contract could have permitted CLT to inspect properties open to the public," a private property owner reserves the right to restrict the use of "public areas" of his/her property. This includes the right to restrict inspection of common areas of a mall or office building, just as one can prohibit solicitors, panhandlers, demonstrators, etc. Since September 11, 2001, security in such buildings has increased dramatically.

Building Permit Processing and Tracking

The Department of Assessment provided CLT with building permits throughout the project. Permits were entered into the IAS database at the parcel level. This allowed a systematic method of identifying and controlling the status of each permit. At the parcel level, the following information was entered on IAS screen CA 15:

Permit Date
Permit Number
Permit Amount

Appendix 2

Permit Purpose Code
Permit Status Code (Open or Closed)
Description of Permit on Single Record Review

After capturing the permit data, IAS form AP922 was printed for all permits with a permit status of “Open.” The AP922 identified the parcel data components along with the pertinent permit information. Each AP922 was reviewed by an appraiser prior to being sent to the field to see if the permit data had already been collected, or if the permit was an interior change that could not be verified from the right of way.

If the permit was an interior change and the appraiser determined that the permit had been completed, the appropriate changes to the AP922 were made (e.g., the permit said to add central air conditioning and the IAS database reflected that central air conditioning was added during the data verification phase). If the permit was for any other changes, the appraiser reviewed the AP922 form, the IAS database, and Landisc images to determine if the change had already been accounted for (e.g., the permit said add second floor, Landisc showed a new addition, and the database showed a 2.0 story height).

All remaining permits with a permit status of “Open” were processed for field review. If the permit work could be observed from the right of way, the AP922 form was modified to reflect the change. Where there was no evidence that the work was done, the permit would not be closed and the entrance information field was completed to document the field review permit visit. If the permit work could not be confirmed from the right of way, the entrance information field was coded ‘N’ to request an interior inspection.

IAS has the ability to track changes made to each parcel via the version file. This was important in looking at ‘before and after status’ of various data components during the building permit review phase.

During the building permit phase, reports were run that identified any permit that had a permit status of “Open.” Additional reports were produced to track the number of closed permits, percent completed, and type of permits.

At the request of the Department of Assessment, County appraisers were actively involved in the field review of building permits.

Appendix 2

BUILDING PERMIT TYPE CODES AND DESCRIPTIONS

1. Addition (extension)
2. Alteration
3. Air Conditioning / Heating
4. Deck, Terrace, Porch, Carport
5. Demolition
6. Dormers
7. Electrical
8. Elevator
9. Fire Damage
10. Foundation Only
11. Garage / Outbuilding
12. Maintain
13. New Building
14. Plumbing
15. Relocation
16. Replacement
17. Solar
18. Sprinkler
19. Swimming Pool
20. Tanks
21. Tennis Court
22. Use
23. Walls/Fencing/Paving
24. Fireplace
25. Cellar Entrance (bulkhead)
26. Bulkhead (waterfront)
27. Grievance Permit
28. Retaining Wall

Appendix 2

PERCENT COMPLETE GUIDELINES

The following is a guideline for estimating percent of completion for a typical “average quality single-family detached” residence.

	Percent of Total	Cumulative Percent
1. Plans, permits and survey	2	2
2. Excavation, forms, water, sewer	4	6
3. Concrete	8	14
4. Rough frame	21	35
5. Windows and exterior doors	2	37
6. Roof cover	3	40
7. Rough in plumbing	4	44
8. Insulation	1	45
9. Rough in electrical and mechanical	11	56
10. Exterior cover	6	62
11. Interior drywall and ceiling finish	8	70
12. Built in cabinets, interior doors, trim	13	83
13. Plumbing fixtures	5	88
14. Floor Covers	3	91
15. Built in appliances	3	94
16. Light fixtures and finish hardware	2	96
17. Painting and decorating	4	100

Appendix 2

Audit Finding (6): Shopping Malls

Auditor's Recommendations:

We recommend that the Department of Assessment review the valuation of shopping malls as to their reasonableness.

CLT's Response:

The following information is in response to the concerns numbered regarding the four malls:

[1] *Basis for Rentals to Various Areas*

Regional shopping centers like Roosevelt Field, Green Acres and Sunrise Mall are made up of department stores, general retail, restaurants, theaters, and out-parcels not attached to the mall itself. Rental patterns established from existing appraisals, income data derived from historical leases, and secondary published statistics all indicated that different uses demanded different rents.

Rental units selected for a property use within a specific mall were based on a review of available lease data adjusted to reflect superior locational and amenity factors found in major regional malls. This process was used for all property use types found in each mall.

[2] *Kiosk and Cart Areas*

Non-conclusive inventory data precluded rental application for items that change and move constantly.

[3] *Tenant Contributions for Real Estate Taxes, Electricity or Common Area Maintenance (CAM)*

Economic rental units applied to each property use were estimated on a gross basis. Rental units were not net of taxes, electricity, or CAM, but were units inclusive of these occupancy costs. Any additions to these rental units would result with unsubstantiated market values.

[4] *Justification / Explanation for the Separation of Mall and Retail Stores*

Mall areas were those designated as common areas. Tenants are required to participate in promotional and advertising management costs, and to reflect this income, rent is applied to these areas. Retail stores were areas designated for tenant occupancy, and rents applied to these areas were based on retail leases adjusted to reflect locational and amenity qualities existing at regional malls.

[5] *Vacancy Rates Were Well Below Market*

Vacancy and collection losses were based on the high occupancy levels for Roosevelt Field, Sunrise Mall and Green Acres. These factors were not based on statistics that were generic in nature that reflect vacancies for less desirable properties.

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[6] *Expense Ratios are Inconsistent Between Malls*

Expense ratios used for the shopping centers when valued as a whole were consistent. Roosevelt Field's expense ratio was 10.30% to 15.90%; Green Acres was 10.30% to 15.90% and Sunrise Mall was 13.50% to 15.90%. These ratios were consistent and market supported.

[7] *Adjusted Rentals are 20% - 30% Below Market*

Market data used to estimate rental rates per property use and location was assembled with the assistance of many local appraisal firms. This data was the foundation for determining fair and reasonable economic rental units for January 1, 2002. We do not have objective data to indicate these units are 20% to 30% below market.

General Comments

Rental rates applied to each property use within each mall were based on market data (leases) adjusted by commercial appraisers to reflect the superior qualities of Nassau shopping malls. Rather than review one parcel within a regional shopping mall, all parcels should be reviewed in total. In this way, the total value of each mall could be reviewed for accuracy and appropriateness. Roosevelt Field had 16 individual parcels; Green Acres had five and Sunrise Mall had 21.

In the audit report, the key words are "do not *appear* to be ...reasonable" and "based upon the data presented." The consultant was not supplied with, nor asked to review, comprehensive real property appraisals.

If some rents are "20% to 30% below market" and reimbursements contribute "10% to 20% or more to gross income," do these factors essentially offset?

As far as differences (expense ratios) between the two (2) malls, the percentage of income would vary if the desired or expected dollar amount of expenses (per square foot) was relatively fixed, and the rental and/or vacancy rates varied.

Appendix 2

Audit Finding (7): Golf Courses

Auditor's Recommendations:

We recommend that the Department of Assessment review the valuation of golf courses. Given that the average increase in tax burden will be about 50%, with increases as high as 140%, it is likely that the valuations will be challenged through certiorari proceedings. A determination should be made as to whether the valuations will be deemed reasonable with those that would have been obtained if the valuations had been performed under the income method.

CLT's Response:

This is mass appraisal, where procedures differ from fee appraisal. The applications of \$90 per square foot and \$25 per square foot for above and below grade space, respectively, were applied to all properties. Various depreciation factors were applied based on age.

In regard to land values, we have supporting documentation, and it was supplied to the auditors.

The income approach, if applied, would have been less supportable than the cost approach. Most of these courses are non-profit. We did not receive any income statements. There was little available comparable operating data in this market to formulate meaningful income approach value estimates.

It is perhaps misleading to state (not quote) that "Judge Frank S. Rossetti ruled that the club should be valued using the income method," followed by a lengthy quote that does not speak to this at all, but rather focuses on restating the Judge's opinion on his decision and how the parties should agree on such matters in the future.

Specifically, the judge favored the income approach simply because the courses should be valued based upon their **existing use** versus their highest and best use. The primary, if not sole criticism of the respondent's appraisal, was the use of residential land sales. Yet, on page 34, the auditor's consultant cannot grasp that we are following the judge's decision (and that employed by the petitioner in its appraisal) by using land sales without residential development potential or intention. Golf course land sales were used. Adjusting land values based upon neighborhoods would be highly subjective if not outright improper in mass appraisal based upon the spirit of the Rossetti decision.

Please refer to the Golf Course Valuation Documentation prepared June 26, 2002. It addresses numerous issues raised by the auditor and/or the auditor's consultant.

Page 33: The cost per hole, as referenced within our June 2002 report, was concluded based upon interviews of developers and others in the industry, and took into account the character of the typical club in the inventory and regional influences. The fact that there was "very little differentiation in the cost of each hole" was entirely appropriate, as (1) we did not have access to the greens of these private clubs, and (2) under an equitable mass valuation procedure, differentiation among holes within a particular course or among different courses would be improper.

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The first sentence of the last paragraph on page 33 is obvious. Under a mass valuation, and perhaps even a property-specific appraisal, the reputation of a golf club would not be a consideration in the valuation of real property rights. Quality of improvements and condition cannot be determined without club membership or permission to inspect, and in any case would be more subjective than most other property types.

The statement that the cost method is not in compliance with Judge Rosetti's decision is not an accurate statement and makes no attempt to quote specific references from the decision. It may be subject to interpretation or argument as to whether the decision compels the County to adopt and rely solely upon any single methodology for all golf courses.

Audit Finding (8): Marinas

Auditor's Recommendations:

We recommend that the Assessor review the valuation of marinas. More than two thirds of the marinas are receiving reductions in their assessed values and it is unlikely that these valuations will be challenged through certiorari proceedings. Properties that may be under-assessed will remain under-assessed.

Those marina properties that received increases may challenge their assessments. Challenges to marina valuations are typically defended by the county through the use of income method valuations. A determination should be made as to whether the valuation conclusions reached by CLT will be deemed reasonable when compared with those that would have been obtained if the valuations had been performed under the income method.

CLT's Response:

On page 35, the auditor indicates an overall reduction of marina values by 9.6%. It appears this conclusion is based on a 5.39% ratio. As of January 1, 2002, the Nassau County stipulated ratio was 6.0% and the ratio utilized by the County Assessor was 8.0%. The utilization of these two ratios produces values of 1.6% and 16.0%, less than market value estimates produced by CLT for the reassessment.

The valuation conclusions on page 35 and 36 refer to the availability and quantity of sales and leases contained in the CLT marina report. The audit report goes on to say, "It would appear that sufficient data could have been gleaned from these appraisals and with proper adjustments related to the subject." This is true in a site-specific appraisal, not when performing a mass appraisal. First of all, subjects were inspected from the right of way rendering it difficult at best to analyze how the property functions. Such features as winter storage (number of boats), parking, loading ramps, bait store, full service, limited service, no service and berth width, just to mention a few, all had an effect on value. Additionally, to appraise unique properties such as marinas via the income approach without reviewing actual income and expense statements would produce unreliable values. As outlined in the Michael Haberman Associates, Inc. marina report dated October 16, 2002, improved sales were utilized to develop land values based on extraction. To value marinas on a whole-to-whole basis via sales would entail an improbable task when adjusting for different features unique to each property. Therefore, the cost approach was deemed the preferred method for consistency and equity.

Page 36: Are these properties really retail? Perhaps it would be inconsistent (if not impossible) to value these properties using the income approach. We don't know the specifics of these properties (e.g., waterfront), but perhaps the "other similar properties" were marinas as opposed to conventional retail facilities.

Audit Finding (9): Movie Theaters

Auditor's Recommendations:

We recommend that the Assessor review the valuation of theaters in light of the available information on number of screens and theater occupancy.

The valuations of theaters that were not included in CLT's list of movie theaters should be reviewed to ensure proper and consistent valuations with those included on the list.

CLT's Response:

Movie theaters are not highly complex properties and hardly warrant classification as such. These properties were analyzed separately for consistency purposes only.

The audit report states that CLT reduced the assessed value on movie theaters by an average of 8.1%. This is substantially higher than our estimates. Based on our calculation, a weighted average change of (2.47%) is indicated. In any event, it should not be assumed for the basis of such comparative analysis that the old values were correct.

The audit report states that, on an individual basis, CLT reduced the value of 64% of the theaters and increased the value of 36%. Based on our figures it was 50/50. Eleven went up and eleven went down. To have many remain exactly the same would have been extraordinary.

Powers & Marshall indicate that none of the comparable leases were utilized because the model was not based on a price per screen or seat basis. They indicate that the appraisers should have evaluated movie theaters on a price per screen or seat basis and go further to indicate that the comparables provided to the appraisers had this information.

The comparables indicated a range of \$262 to \$798 per seat; \$40,000 to \$180,600 per screen and \$13.42 to \$30.10 per square foot. It should be evident to any appraiser that the most meaningful range of values was provided by the price per square foot measure in this survey. The other measures provide ranges that were far too wide to provide any meaningful analyses.

What Powers & Marshall neglected to say was that the price per square foot indicators in this survey were far more relevant and offered narrower value ranges than either of the other measures. In fact, Powers & Marshall completely neglected to mention that the comparables were also analyzed on a price per square foot basis.

The audit report mentions that some movie theaters were not included in the movie theater list. Most of these theaters were part of a larger retail property and that is why they did not appear on the list. We may have missed two properties due to incorrect property classifications in the IAS or Nassau County inventory.

- Bellmore Five Star Theaters/Playhouse – Not a movie theater. Came in on an informal meeting.

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- Bethpage Mid-Island Triplex – Part of a shopping center. Any theater that was part of a shopping center could not have been valued separately.
- Great Neck – Clearview Squire Cinemas – We will check this one to see if it is part of a larger property. If not, it should be confirmed that the value is consistent with other movie theaters.
- Malverne – Malverne Cinemas 4 – We will check this one to see if it is part of a larger property. If not, it should be confirmed that the value is consistent with other movie theaters.
- New Hyde Park – Clearview Herricks Cinema – Part of a multi-tenant retail property. Any theater that was part of a shopping center could not have been valued separately.
- Port Washington – Clearview Soundview 6 – We will check this one to see if it is part of a larger property. If not, it should be confirmed that the value is consistent with other movie theaters.
- Valley Stream – Green Acres – Included with the valuation of the mall in this case.

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Audit Finding (10): Office Buildings

Auditor's Recommendations:

We recommend that the Assessor review the valuation of office buildings. A determination should be made as to whether the valuations are reasonable in light of the valuation issue raised by the outside appraiser.

CLT's Response:

The following information is in response to the numbered concerns listed regarding EAB Plaza and 900 Stewart Avenue:

- [1 & 2] Office leases retrieved from local appraisal firms were used to establish base rent for office buildings in the Uniondale area. These base rental units were adjusted to reflect the superior quality and features found at EAB Plaza.
- [3] Allowances for tenant contributions for taxes, utilities and common area maintenance (CAM) could not be added to an adjusted gross economic rent as of January 1, 2002. Market rents were grossed up prior to being adjusted for modeling purposes. To add factors for tenant contribution would result in an over-estimation of potential gross income and appraised values.
- [4] The locational deficiencies associated with 900 Stewart Avenue required a substantially lower rental than EAB Plaza. EAB Plaza is known as a trophy type office complex, and demand for its space is well known within Nassau's real estate community.
- [5] Expense ratios used were 26% for 900 Stewart Avenue and 27% for EAB Plaza. These were very consistent and market-supported.

Cole•Layer•Trumble Values

900 Stewart Avenue	\$124.00 / sq.ft.
EAB	\$174.00 / sq.ft.
100 Duffy Avenue	\$120.00 / sq.ft.

These unit values, when compared to improved office building sales, display units that were both reasonable and market supported.

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<u>Sale #</u>	<u>Location</u>	<u>Date</u>	<u>Size</u>	<u>Price</u>	<u>Price/Ft.</u>
24	Marcus Ave., Lake Success	02/01/99	109,260	\$13,200,000	\$120.81
25	Zeckendorf Blvd., Garden City	04/21/99	22,751	\$3,200,000	\$140.65
26	Hilton Ave., Garden City	01/18/00	23,217	\$3,350,000	\$144.29
27	Old Country Rd., Mineola	02/15/00	101,290	\$14,900,000	\$147.10
28	Merrick Rd., Lynbrook	03/31/00	32,862	\$4,530,000	\$137.85
29	Willis Ave., Mineola	08/11/00	16,009	\$2,883,800	\$180.14
30	Shore Rd., Great Neck	03/26/01	32,000	\$4,175,000	\$130.47
31	Franklin Ave., Garden City	09/14/01	13,768	\$2,350,000	\$170.69
32	Franklin Ave., Garden City	10/25/01	10,000	\$2,180,000	\$218.00
33	Franklin Ave., Garden City	01/09/02	19,094	\$2,100,000	\$109.98

Audit Finding (11): Hotels

Auditor's Recommendations:

We recommend that the Assessor review the valuation of hotels. A determination should be made as to whether the valuations are reasonable in light of the valuation issue raised by the outside appraiser.

CLT's Response:

Only one of the hotels in Nassau County responded to a request for financial information concerning their operations in conjunction with the revaluation project. Consequently, the hotel valuation models for each segment of the market, as well as adjustments to individual hotels, were based on information obtained from the following sources:

- (a) Input from Hospitality Valuation Services (HVS), a consulting firm specializing in hotel valuations on a local and national level.
- (b) Information obtained from national and regional surveys that provide indices for different types of hotels, including full-service luxury hotels, full-service upscale hotels, mid-priced hotels, economy hotels, and extended stay hotels.
- (c) Articles in newspapers and magazines concerning the hotel industry and its performance in different industry segments.
- (d) Property-specific information from appraisal organizations performing tax certiorari services for certain hotels within Nassau County.

In Powers & Marshall's audit of two hotels, including the Garden City and Marriott Hotels, the audit findings consist of six comments. A response to each of the six findings is presented below.

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- (1) **Finding:** *“The Room Rate of \$180.00 per day is \$20.00 to \$50.00 below hotels stated rack rates and significantly below the marketplace for convention hotels.”*

Response: For this particular segment of the market, Full-Service Luxury Hotels, our model used an average daily rate (ADR) of \$180.00. The average daily rate was a significantly different per-unit measure than either a “room rate” or “rack rate.” Specifically, the ADR is an industry-wide term defined as “total guest room revenue divided by the total number of occupied rooms.” In contrast, the “rack rate” is simply the stated hotel room asking rate. Due to discounts provided to tourist, business and convention groups, as well as “special deals” offered by hotels to boost occupancy, the ADR is significantly lower than the stated “rack rate.”

- (2) **Finding:** *“Rent adjustments of plus 10% for the Garden City Hotel and minus 19% for the Marriott Hotel is inconsistent and unfounded.”*

Response: The \$180.00 ADR selected for the Full-Service Luxury Hotels is a “base” rate that could be adjusted either upward or downward for each property in our model. In the case of the Garden City Hotel, we adjusted the ADR upward by 10% to \$198.00 per day to reflect a high-end hotel in this segment of the market. This selection fell at the low end of the range that Powers & Marshall suggest is within industry norms (\$200.00 to \$230.00).

Based on property-specific information provided by Hospitality Valuation Services (HVS), an international hotel consulting firm, the ADR for the Marriott Hotel was adjusted downward by 10% to \$162.00.

- (3) **Finding:** *“The vacancy/occupancy rates for the Garden City Hotel and the Marriott are unsupported. The occupancy rate of 46.54% (53.46% vacancy) is far below the average of 60% to 65% in the marketplace.”*

Response: The occupancy rate used for the Full-Service Luxury Hotel Model was 70% (30% vacancy rate), only slightly higher than the range suggested by Powers & Marshall. This “base” rate was adjusted upward slightly to 73% for both the Garden City and Marriott Hotels, which perform well in this segment of the market. Specific property information was provided by HVS to forecast the occupancy rate for the Marriott Hotel.

- (4) **Finding:** *“Total income from the Garden City Hotel is 82% higher than Marriott. This is not reasonable.”*

Response: Total room revenue for the Marriott and Garden City Hotels is estimated at \$36,542,340 (\$59,130/room x 618 rooms) and \$19,657,440 (\$72,270/room x 272 rooms), respectively. Therefore, the Marriott’s total room revenue was 86% higher than that for the Garden City Hotel.

Net operating income (NOI) for the Marriott and Garden City Hotels was estimated at \$8,010,516 (\$12,962/room x 618 rooms) and \$4,362,336 (\$16,038/room x 272 rooms), respectively. Therefore, the Marriott’s NOI was 84% higher than that of the Garden City Hotel.

Audit Finding (12): Tax Rates

Auditor's Recommendations:

CLT should review the tax rates used for valuation purposes to ensure that there is uniform treatment for all commercial properties. In those cases where special district taxes, including county taxes, were excluded from the tax rate calculation, corrections should be made. The appraisers should re-review these properties and determine if all the income and expense factors are defensible in a certiorari proceeding.

CLT's Response:

The audit finding stated that CLT's system could not accommodate the thousands of different tax rates for each property in the county. It should have read that CLT chose to use an automated system by using tax rate *files* supplied by the County rather than use the conventional system of applying one effective tax rate for each neighborhood by use type.

Our previous response that special tax district rates were not universally applied to all assessments all of the time and were sometimes applied to only a portion of an assessment, still stands.

We do not agree with the conclusion that the audit report sample properties were overvalued by 13%. Nowhere in the report is mentioned the valuation of similar properties or sales of similar properties. The correctness of any set of values, and indeed the beginning point of the valuation process, is to see just what the subject property types are selling for and have sold for in the market place. After the valuation process is completed, the resulting values are tested by means of sales ratios. The results of the sales ratios for the reassessment project are stated in your report. We stand by the results of these reports as they are well within the industry standards and the standards outlined in our contract.

The report states that the project administrator provided information that sales were not used in the valuation of commercial properties. This could not be further from the truth. As stated above, sales are the *starting point* of the valuation process. What the project administrator said was "we did not use the *comparable sales approach* in the valuation of commercial properties." We did not select five comparable sales and do grid adjustments, as is the case in the residential valuation process.

The report further states that only 742 valid sales were used for comparative purposes. This amount of sales was, by far, enough to derive a statistically acceptable sales ratio. If the auditors disagree, they have not stated what number of sales would be acceptable.

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Audit Finding (13): Outliers

Auditor's Recommendations:

The Department of Assessment should require CLT to produce the required outlier reports and provide explanations/justification for the final valuations.

CLT's Response:

Criteria used to produce the outlier report were based on percentage differences between the APRTOT (Appraised Total) and the REVTOT (Reviewed Total). The REVTOT was the appraiser's estimate of APRTOT after data changes to the parcels were made. APRTOT was the market value generated by IAS after the data changes were made.

The report was then reviewed by the appraisal staff to ensure that the REVTOT and data changes were entered correctly. The appraiser's final opinion of value was based on the accuracy of REVTOT estimate of value and APRTOT generated by IAS market comp sheets. Percent differences were not necessarily an indication that the APRTOT represented an incorrect value.

The outlier report was a sample of a work in progress and may or may not have reflected the final value assigned or the value posted on the website. Once an outlier report has been reviewed, data corrections justified, and the appraiser's final opinion of value posted in IAS, the report has no value.

Audit Finding (14): Integrity of the Database

Auditor's Recommendations:

- (1) *CLT should comply with the terms of the RFP and produce the required Edit Reports and subsequent output reports. Test checks should be performed by the Assessor to ascertain their accuracy.*
- (2) *The Contractor, CLT, and ORPS should memorialize their agreements as part of the quality assurance process.*

CLT's Response:

Over the course of 24 months, the CLT IT staff wrote in excess of 1,000 edit scripts to check and maintain the integrity of the converted data, data post data mailer entry and the data post hearing maintenance. These scripts and many of the original lists files are stored on the Sunprod Server in a backup file for historical and future review purposes. The Nassau County Comptroller's Office was provided a sample of the type of edits run with the results. A complete review of all edits can be completed by accessing the actual scripts as stored.

Specifically requested was an explanation of "0" total rooms. Based on the data available, the total number of rooms was not a factor in estimating the full market value utilizing the cost or market approach. Over 95% of the parcels missing total rooms were residential condominiums. A review of the Nassau County inventory indicated that the information was converted correctly and that the Wang system also did not have this data on a limited number of parcels. Although it was not "logical" for these parcels to have "0" total rooms, data mailers were sent out to the property owners to correct any erroneous information and these property owners did not opt to correct this data. However, a list of parcels will be given to the Nassau County Field Division for review and correction of total rooms.

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Audit Finding (15): Contaminated Properties

Auditor's Recommendations:

Under the Source Water Assessment Program (SWAP), a Nassau/Suffolk database of contaminated sites is under development, which will be provided to the county's Department of Public Works shortly. It is anticipated that information from a variety of sources (federal, state, county, etc.) will make this the most comprehensive information on contaminated sites available to the county to date. The Assessor should confer with the County Attorney to evaluate the information and determine if it provides sufficient detail to re-value the contaminated properties to reflect the loss of value resulting from the cost to cure the contamination. This step may serve to avert costly tax certiorari proceedings.

CLT's Response:

On page 51, the audit report indicates that a countywide database of properties affected by environmental issues did not exist. This assumption is still true. A telephone conversation on March 11, 2003 with the GIS Coordinator for Nassau County verified this fact. He indicated there are various departments gathering environmental data which will be compiled and plotted for use in the Nassau County Geographical Information System.

In response to the statement, "No adjustments to values were made unless there were complaints by property owners," is true. To utilize incomplete, non-conclusive lists of contaminated properties in Nassau County for the purpose of reducing property values would be considered reckless and irresponsible. To analyze the impact on value because of contamination, specific detailed data would be required.

This data includes, but is not limited to:

- Type of contaminant
- Extent of contamination
- Date the incident occurred
- Projected period for remediation
- Estimated cost for the remediation
- Effect remediation would have on the day-to-day operations of the property

As real estate appraisers, we are not permitted to estimate a cost to cure for issues like contamination. This expense is determined by professional engineers and then reviewed and applied by appraisers after determining the effect it has on market value. Another consideration is stigma due to contamination. This effect must be extracted from the market, realizing that the stigma associated with contamination affects properties differently. A gasoline station stigmatized by contamination is viewed differently than a residential dwelling. To make blanket contamination adjustments for all properties listed on incomplete lists would have cost the county millions of dollars in unnecessary reductions.

Page 51 suggests there was adequate data available on the Web to make adjustments to value based on environmental impacts caused by contaminants. As previously stated, this could not be performed without engineering reports for specific properties and a market study for the impact on value associated with stigma. This was evident after a telephone conversation with Christos

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Tsiamis, the EPA project manager for the Jackson Steel Product site. As per Mr. Tsiamis, the site has been on the Super Fund Site list for about two years. A preliminary assessment of the site has taken this length of time to determine the extent of contamination on the site. From this point, he has estimated an additional two years until the project is started with an estimated completion time of three years. When asked the cost for the project he stated it has not been determined. The reason for this is that it will take about one year to determine the best method of remediation for the site, at which point it must be voted on by the community. These procedures are typical for contaminated properties. Therefore, merely knowing the locations of these properties, along with the vague data available on these sites, proves inadequate to reduce market value of properties affected by contamination.

The auditor's recommendation on page 52 refers to a new program called SWAP (Source Water Assessment Program), which will be a great tool for identifying contaminated properties, but would not be appropriate for valuation purposes.

Ronald Entringer, the coordinator for the SWAP program, which is controlled by the New York State Department of Health, explained the actual purpose and methods to which the data is retrieved and used. The program is being developed in order to estimate the potential for contamination of public water supplies. The data retrieved is from local municipalities and water companies with concerns of contaminated sites and their proximity to well recharging areas. The purpose of the program is for site-specific well assessment and to provide resource managers with additional information to assure the region's source water is protected. As previously stated, the program is designed for the assessment of well recharging areas; therefore, contaminated sites that do not pose a threat to drinking water are not included in the program. It appears this program will be sufficient for its intended use; however, it obviously falls short of utilizing it for the valuation of contaminated property.

Further review of the data sources referred to in the audit report will further support the conclusion that insufficient data was available to reduce market value based on contamination.

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Audit Finding (16): Broadway Mall

Auditor's Recommendations:

The County Assessor should require CLT to prepare the necessary narrative summary appraisals for unique and highly complex parcels. If the narrative summary appraisals do not support CLT's valuations, changes, wherever legally allowed, should be made to reduce the County's refund exposure.

CLT should make full use of available resources such as recently prepared appraisals to confirm the validity of values generated by their computer models.

CLT's Response:

CLT has fully complied with section 4.11.3 and Appendix B in determining the unique and highly complex property list. Both CLT and the project administrator agreed that the two cogeneration plants and Belmont Racetrack were the only properties requiring narrative reports. As part of the contract deliverables, a 24-page report including supporting documentation for the cogeneration plants and an 11-page report including supporting documentation for Belmont Racetrack were delivered.

CLT and subcontractors did use appraisals and recent certiorari settlements as "additional information" in determining values. However, as is endemic in the appraisal profession, all appraisers will not always agree with another appraiser's conclusions or opinion of value. Additionally, a settlement in certiorari proceedings is not an indication of the actual true market value of a specific property, rather, a value that both parties can agree on to avoid further proceedings.

Specific to the Broadway Mall: The conclusions, or better the entire report, of the Powers & Marshall appraisal have not been referenced in the auditor's gauging of variances from market value, as assumed to be set by a tax certiorari settlement.

A tax certiorari settlement – if readily available to the contractors – is not necessarily synonymous with or representative of market value. Access to all appraisals would be appropriate for proper consideration as valuation guidance.

Page 54 states: "Based upon the appraisers' valuation determinations, the County Attorney settled the assessed value of the property at \$5,945,360. This assessed value equated to a fair market value of \$92,896,250, using the then County stipulation rate of .064. A comparison of the three appraisals with the County attorney's settlement and CLT's preliminary and final values is as follows:

Why has the auditor or the auditor's consultant used the 6.4% stipulated rate here, but on page 35 used the state equalization rate of 5.39%?

The lower rate will increase value where one may wish to exaggerate it. The higher rate will "hold" down a value where one may wish to show a lower number.

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Also, if the reader has difficulty in figuring out the basis for the “2002 Time Trending” on Page 54, the reader should divide the assessment used on Page 54 (\$5,945,360) by the 5.39%. It is very curious that this equals – to the dollar – the “trended” average of the value that is reported to be based upon the Sterling appraisals.

Audit Finding (16): Residential Vacant Land

Auditor's Recommendations:

The Assessor should emphasize to the State Legislature the importance of the enactment of this bill to alleviate the significant increase in the tax burden. Rather than just permitting undeveloped residential land that is adjacent to, and has the same owner as, the developed residential land, to be taxed at Class I residential rates, the law should permit all vacant residential land to be taxed as Class I.

The County's project manager should review and comment on the revised values.

CLT's Response:

No response from CLT is required, however, legislation has been passed to reclassify residential vacant land into class I.

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Audit Finding (17): Waterfront Properties

Auditor's Recommendations:

It is essential going forward that the Department of Assessment monitor waterfront sales and the corresponding computer models closely, to ensure that values are accurate and fair. If the hiring of in-house or outside experts in computerized residential valuation methods is necessary to achieve this, the County's administration must ensure that the necessary funding is in place to allow the department to achieve this goal.

CLT's Response:

The update contract approved by the County Legislature on March 24, 2003 contains provisions to refine and enhance the mass appraisal techniques as applied to waterfront properties.

**Nassau County Department of Assessment
Response To
Office of the Comptroller Field Audit
Cole Layer Trumble Company:
Countywide Reassessment Project
FA03-03**

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 15 of the draft report:

In as much as the mass appraisal methodology develops values based on averages, adjustments must be made in the field to reflect actual influences that cause a specific property to deviate from that average. Failure to account for these influences would be inappropriate and result in values that are incorrect and not defensible. While mass appraisal tends to be objective in its methodology and application of conclusions (based on market data), the subjective opinion of the appraiser reviewing the data is imperative to adjust for differences from the average. In mass appraisal, as well as appraisal, the practice of making adjustments is always required. At times, especially in mass appraisal, the adjustments may be large. The Department of Assessment has reviewed not only the policies of CLT in making these adjustments, but the actual adjustments themselves as to reasonableness and correctness. We agree with the adjustments and the rationale used by CLT in arriving at the adjusted figures and their final reconciliation of value.

In addition, the County Reassessment Consultant, Dr. James E. Culver, AAS, IAO, has continuously monitored this and all issues described in this audit for compliance with industry standards, governing laws, state rules and regulations, and contract compliance. As a nationally renowned expert, Dr. Culver agrees that the procedures used by CLT are typical of practices within the industry.

Contrary to the finding of the audit, all adjustments were documented (including who made the adjustments and the reason for the adjustment) in the SUN/IAS system. The SUN/IAS system has been installed in both the Office of the County Attorney and the Assessment Review Commission and both entities have received classroom instruction on the use of the system. Also, hands-on-training has been provided to both entities and will continue to be provided as requested.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 18 of the draft report:

The “review” as described in the audit, was performed by CLT. Issues that were discovered by the informal hearings were applied to all impacted properties, not just

those who attended a hearing. This process was insisted upon by Dr. Culver and monitored at all times for compliance. There were many instances where groups of properties were adjusted because of the information that was brought to the attention of CLT via a single informal hearing. The Department of Assessment can confirm that this recommendation was followed during the reassessment process and will continue to be followed in subsequent reassessment projects.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 21 of the draft report:

The Department of Assessment is undergoing a major change in the systems utilized to perform its functions. The addition of the IAS/SUN system is the first step in a multi-year plan to upgrade and install new technologies to better perform the duties required of the department. The Department of Assessment plans to work with a consultant and a reassessment company over the next several years to assure fairness and equity to the taxpayers of Nassau County. During this process, Department of Assessment staff has and will continue to receive training in the new technologies. As the staff becomes capable of each task necessary to perform our functions, it is anticipated that reliance on contractors and consultants will diminish over time. The new contract for annual reassessment acknowledges this fact, as the Department of Assessment has already assumed some of the duties required of CLT in the last contract, and allows for credits to the County for any and all work assumed by the County over the duration of the contract.

While budget constraints have prevented the Department of Assessment from having adequate resources to conduct a reassessment in-house, it is the goal of the department to move in that direction each and every year until the goal can be fully realized.

The recommendation that the County should integrate GIS with the IAS-CAMA system is already under way. Unfortunately, the GIS system was developed and is maintained by the Planning Department and offered limited capabilities during the reassessment just completed. The GIS system was utilized for several purposes in the reassessment (management, routing, spatial analysis, thematic maps, etc.) but could not be utilized to the extent desired due to the limited time in which to complete the court-ordered reassessment.

The contract for this coming year requires additional uses of the GIS system. Specifically, it calls for the use of GIS in comparable sales selection with physical distance being a criterion for selection. Thus, this recommendation is already being implemented. As the GIS system is further developed, along with the mapping project, additional uses will be possible and shall occur.

The Department of Assessment disagrees with the finding regarding school district boundaries. While neighborhood delineation is an important task in the valuation process, neighborhood boundaries, at times, do cross school district boundaries. The audit findings fail to support the claim made, which has been more of a perception

problem than a valuation problem. Clearly, there are situations where neighborhood boundaries, as used for valuation purposes, cross over school district boundaries. The Department of Assessment will continue to monitor the neighborhood delineation process each year and make adjustments as warranted by the marketplace.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 25 of the draft report:

CLT and the Department of Assessment worked together to send an income and expense form along with a cover letter explaining that the law requires the filing of the income and expense statement for each income producing property. Due to the low response, an additional communication was also mailed as a follow-up. Most property owners did not comply with the request. However, every effort was made to seek compliance – short of litigation as provided by law, which would be a function performed by the Office of the County Attorney. It should be noted that the failure to comply results in such a small inconsequential penalty, that enforcement is cost prohibitive.

Nonetheless, the database of income and expense information assembled was described by the County Consultant as, “The most comprehensive compilation of income producing data ever assembled for a reassessment project.” In addition to the County Consultant, the New York State Office of Real Property Services (ORPS) spent days reviewing the data in detail. They brought in their top two experts in Albany for the purpose of reviewing the process, the sources of the information, the database compiled, and the conclusions that resulted. These experts expressed similar opinions and commended the Department of Assessment, CLT, and its contractors for doing such a thorough job in developing this data.

The adequacy of the income and expense information, as well as the quality of the information, was far more than necessary to proceed with valuing property utilizing the income approach to value for income producing properties. The lack of response from property owners to our request for data did not hinder nor impact the accuracy of the values determined.

As to punitive actions for taxpayers’ failure to comply with the law, it is not within the jurisdiction of the Department of Assessment to prosecute cases. It is also not within our jurisdiction to levy and collect penalties for non-compliance.

Early in the project, attempts were made to change the law, to require additional “teeth” to the penalty portion, but it received no political support.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 29 of the draft report:

The Department of Assessment has always attempted to gain access to properties for the purpose of verifying and collecting data used in the valuation process. The limitations on our ability to gain access to properties is diminished by constitutional rights of property owners, Opinion’s of Counsel (ORPS), and the opinion’s of the County Attorney, all of which indicate that it is trespass to enter onto a privately owned property without the permission of the owner – who has the right to deny our request. Even publicly accessed portions of privately owned properties cannot be accessed without the permission of the owner. While this makes our job more challenging, we must abide by all laws when it comes to this matter. To do otherwise would clearly violate constitutional rights of property owners and the opinions of our legal advisors at both the State and County level.

The comments regarding building permits are not understandable. The Department of Assessment maintains a proper method for maintaining and collecting property data changes caused by building permits. Building permits are not issued at the County level, but rather at the Town and Village level. Each political subdivision maintains their own application form – with each varying from the others. Copies of building permits are provided to the Assessment Department on a periodic basis and entered into our computer system immediately upon receipt. Each permit is then monitored for completion, data collected, and valuation changed before the open permit is marked as closed. All permits stay in the system in perpetuity so as to provide a “history” for each property.

The systems and methodology utilized are appropriate and adequate to properly perform the functions intended.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 30 of the draft report:

The Department of Assessment, along with the County Consultant monitored the data, processes, methodology, and resulting values of shopping malls throughout the project. Department personnel were also utilized to review these functions. It is our opinion, and that of the County Consultant, that CLT performed adequately in the valuation of these types of properties.

The audit finding demonstrates the audit teams lack of knowledge and expertise in the field of mass appraisal, as well as that of their contractor, Powers and Marshall. The Department of Assessment and CLT can provide a wealth of information regarding each component of each decision that was made to arrive at the values of these properties. Much of this information was shared with the audit team. While we welcome the opportunity for constructive criticism, the audit team and Powers and Marshall offered no useful information that would persuade us to reconsider anything. The audit report shows absolutely no supporting documentation as to how P & M arrived at their conclusions.

While CLT and the Department of Assessment provided volumes of supporting documentation reviewed and approved by the largest mass appraisal firm in the country, numerous local Nassau County appraisal firms, the County Consultant, the New York State Office of Real Property Services and the Department of Assessment. The audit offers a mere verbal opinion that the audit team has accepted as more meaningful than the process used by the department.

The Department of Assessment believes the unsubstantiated opinion of a firm with no demonstrated knowledge of mass appraisal should have no credibility in this review/audit process, especially in light of the overwhelming data that was accumulated to arrive at the decisions that were reviewed and approved by all the entities mentioned above.

Since the team of Powers and Marshall never contacted the Department of Assessment, nor CLT, nor any of its subcontractors, nor the NYS Office of Real Property Services, nor the County Consultant, how did it arrive at its conclusions? Whatever the answer, the Department of Assessment knows that they did not have access to the information necessary to render any judgment upon the work performed in the reassessment project. In as much as the audit team and Powers and Marshall lack the expertise to properly evaluate mass appraisal, we find that neither entity has any credibility whatsoever, and as a result, all remarks made throughout the audit by Powers and Marshall, as well as the audit team, should be reviewed with “extreme caution.”

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 34 of the draft report:

The Department of Assessment, along with the County Consultant monitored the data, processes, methodology, and resulting values of golf courses throughout the project. Department personnel were also utilized to review these functions. It is the opinion of the County Consultant that CLT performed adequately in the valuation of these types of properties. CLT considered case law and utilized an outside expert in golf course valuation to supplement the process.

The audit finding once again indicates the audit teams lack of knowledge and expertise in the field of mass appraisal, as well as that of their contractor, Powers and Marshall. The Department of Assessment and CLT can provide a wealth of information regarding each component of each decision that was made to arrive at the values of these properties. Much of this information was shared with the audit team. While we welcome the opportunity for constructive criticism, the audit team and Powers and Marshall offered no useful information that would persuade us to reconsider anything.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 38 of the draft report:

The Department of Assessment, along with the County Consultant monitored the data, processes, methodology, and resulting values of movie theaters throughout the project. Department personnel were also utilized to review these functions. It is the opinion of the County Consultant that CLT performed adequately in the valuation of these types of properties.

The audit findings present statistical data that is not correct. The audit team needs to recheck their math.

The audit team also fails to recognize the format in which data is collected and maintained. The predominant use of a facility determines its primary use in mass appraisal. Thus, a freestanding movie theater is classified as a “movie theater”, because that is its only use. However, a mall (Roosevelt Field), which has movie theaters as an incidental use, would be classified as “retail”, because that is its primary use. That does not mean the movie theaters were not considered in the valuation process. They surely were considered.

The audit finding once again demonstrates the audit teams lack of knowledge and expertise in the field of mass appraisal, as well as that of their contractor, Powers and Marshall. The Department of Assessment and CLT can provide a wealth of information regarding each component of each decision that was made to arrive at the values of these properties. Much of this information was shared with the audit team. While we welcome the opportunity for constructive criticism, the audit team and Powers and Marshall offered no useful information that would persuade us to reconsider anything.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 40 of the draft report:

The Department of Assessment, along with the County Consultant monitored the data, processes, methodology, and resulting values of office buildings throughout the project. Department personnel were also utilized to review these functions. It is the opinion of the County Consultant that CLT performed adequately in the valuation of these types of properties.

In as much as it is easy to criticize a result without being involved in the entire process, this appears to be the result. Had Powers and Marshall met with CLT or the Department of Assessment to review the entire process or had they been involved in the project, we are confident that they would have agreed with the processes and resulting values. Unfortunately, they were not, and as a result, lack any understanding of what the processes utilized entailed. The department’s involvement was substantial and we are confident that the process and results are reasonable and defensible.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 41 of the draft report:

The Department of Assessment, along with the County Consultant monitored the data, processes, methodology, and resulting values of hotels throughout the project. Department personnel were also utilized to review these functions. It is the opinion of the County Consultant that CLT performed adequately in the valuation of these types of properties.

Powers and Marshall seem to not understand the difference between “rack rate” and “average daily rate”. Obviously, hotel valuation is not their expertise. The comments that they offer in this section are not correct and offer nothing that leads us to believe that the processes and methods utilized to establish the values of hotels was incorrect.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 45 of the draft report:

This recommendation offers numerous items that are all critical in the establishment of a proper value for income producing properties. While the recommendations are appreciated, they are based on an improper understanding of the whole process and how weaknesses in the mass appraisal system are recognized and adjusted for in other steps of the project. If properly considered, which we believe that CLT did, the resulting value will be fair, equitable, and defensible. The Department of Assessment closely monitored and actively participated in the numerous decisions made in this area. We are confident that the results are reliable.

The audit teams accusations are unfounded, especially when considering the entire process. Mass appraisal does have weaknesses; there is no doubt about it. But knowing the weaknesses and compensating for them is a skill that comes only with years of experience. CLT, with the assistance and guidance of the County Consultant, carefully considered the weaknesses, and adjusted other processes to counter the effects in order to produce reliable values. The audit team failed to take this into consideration in their analysis, which lead to conclusions that are not reflective of the outcome.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 46 of the draft report:

Contrary to the claim made as part of this recommendation, CLT did review all outlier reports with the Department of Assessment and the County Consultant. As a result of the reports, many actions were taken to re-verify data, eliminate sales that were determined to be not arm’s-length, and the further analysis and field review of values. Actually, numerous runs of outlier reports, at various stages were reviewed and the appropriate

action taken. Once the action was taken, the reports have no value and were discarded. In addition, sales ratio reports were run hundreds of times throughout the project to determine the adequacy of decisions based on measuring the outcome against market sales.

CLT's cooperation in this area was outstanding and they should be commended for their dedication to review all outliers and achieve such excellent statistical results.

CLT's explanations and justifications for the final values are well documented within the IAS/Sun system. The system records changes and adjustments, creating a new version each time for each property, while maintaining the old records for historical purposes, as well as for explanations and justifications. While the audit team may not like the explanation or justification, the explanation and justification are contained within the system.

The following is the response of the Department of Assessment to the recommendation listed as "Auditor's Recommendation" on page 49-50 of the draft report:

Throughout the project, edit reports were run to such an extent that printed copies of these reports would probably fill an average size house. The edits run were substantial, complete, and exhaustive. The number of edits run exceeded one-thousand (1,000) reports. And many of those reports were run dozens of times at various stages throughout the project. The Department of Assessment and the County Consultant assisted in the design, review, and consequential actions needed as a result of the edit reports. CLT has fully complied with this requirement.

Copies of the over 1,000 programs written to run the edit reports are all available on the system server. The Department of Assessment can now use these edits for our internal purposes. Samples of some of the edits were provided to the audit team and they are welcome to review all of them if they would like to do so.

Even with all the edit reports, mistakes are made. It's possible that a taxpayer, who attended an informal hearing complaining that they tore down their three-car garage, may have had data fields incorrectly changed – due to the human element of data entry. In changing the number of car garage from a three to a zero, the data entry person may have entered the wrong field and changed the number of bedrooms from three to zero by mistake.

Edit reports are run at numerous points to identify and clean-up errors before valuation is run. An error, like the hypothetical proposed above, would have occurred after valuation was run and would likely be caught and corrected when the edit programs are all run again – before the next valuation is run (annually).

CLT fully complied with this requirement within the contract and went above and beyond the call of duty to cater to our numerous requests for additional edit reports. Copies of the actual programs used to run the reports were turned over to the department.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 52-53 of the draft report:

While much data is available on contaminated properties, none of the publicly available data provides enough detail to determine the extent of the contamination, its impact on value, nor its cost to cure. Knowing that a property may be contaminated is helpful for identification purposes, but requires much more information in order to determine its impact on value – if any.

Information of this nature is not available. The only way to ascertain such information is to conduct costly extensive engineering studies or have the property owner share such information. To randomly guess at the influence on value caused by contamination is inappropriate and would subject us to even more criticism. The process of proving contamination and its impact on value is left to the property owner. By virtue of receiving a market value that does not consider the implication of contamination, the property owner typically will schedule a meeting at which time they share that type of data with us for our consideration. That’s why informal meetings are a critical step in the process.

This is a standard practice in the business because data of this nature is not publicly available and property owners cannot be compelled to share that information. Typically, when it is projected to impact their property taxes, they are willing to come forward and share the data in an effort to have us reconsider the value based on the information. That’s the way it works. It’s not perfect, but it does achieve the desired results – accurate final values that properly reflect the impact of the contamination.

Subsequent to the release of the draft audit, the Comptroller’s Office communicated, by memorandum, a list of properties allegedly contaminated, for the departments review and consideration. Again, the identification of properties impacted by contamination is not the issue, as state and federal agencies all make public this information. The issue is the impact on value that the contamination has on the property. Unless we can identify the type of contamination, the extent of the contamination, the cost of remediation, and the effect on value of the stigma it presents, no one is capable of adjusting a value in a proper manner. The communication from the Comptroller’s Office did not provide any of this information. Only the property owner can provide or ascertain this type of information. If and when it is presented for our consideration, adjustments have been and will continue to be made in accordance with industry and appraisal standards.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 56 of the draft report:

In reviewing this issue, the Project Administrator and CLT agreed that there were only three properties that met this criterion – Belmont Raceway and two cogeneration plants. To this end, CLT did provide narrative summary reports as requested, actually exceeding the requirements of the contract.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 57 of the draft report:

The duty of changing laws is vested with legislators. The Department of Assessment has no legislative duties, nor authority, to enact legislation. Information regarding the reassessment was conveyed to legislators in a timely manner (immediately upon our discovery), and in our opinion, the legislators took action. Additional legislation is also being considered.

Everything that the audit team is recommending in this section was actually done over seven (7) months ago and the audit team knew this at the time of the drafting of their report.

The following is the response of the Department of Assessment to the recommendation listed as “Auditor’s Recommendation” on page 60 of the draft report:

The Department of Assessment, because of the waterfront controversy, exhausted numerous hours in reviewing the accuracy of waterfront values. Due to the uniqueness of each of these properties, it is much more difficult to attain the same level of accuracy as that of non-waterfront properties. Based on the market information available at the time of valuation and based on the statistical testing conducted through sales ratio studies, the accuracy of the waterfront values was well within the industry standard.

The Department of Assessment will strive to identify all potential considerations to improve the accuracy of the valuation of these types of properties.

CLT's ADDENDUM REGARDING POWERS & MARSHALL'S
PARTICIPATION IN THE AUDIT PROGRAM

The Powers & Marshall appraisal firm has for the past 25 years prepared appraisal reports on behalf of petitioners protesting Nassau County assessments. This company was hired by the Comptroller's Office to "review the adequacy and relevance of CLT's source material and data relative to commercial properties, and evaluate the methodology and the appropriateness of the valuation techniques used."¹

The assemblage of income and expense data ultimately selected for the reassessment project was completed with the cooperation of Nassau County appraisal companies. This cooperation was financed by CLT's local subcontractors to these participating companies for leases which were analyzed, confirmed and abstracted into an electronic data base and for income / expense data for major property types.

It appears that this proprietary data was released to Powers & Marshall. This is somewhat unsettling unless this data was not given to Powers & Marshall or at least was controlled by the audit staff and Powers & Marshall were allowed to only view the data. If this is not the case, this data could be used by Powers & Marshall in their normal business practice in appearing against Nassau County on tax certiorari proceedings. If this has happened, reductions in assessment and resultant refunds could be costly to Nassau County.

Auditor's Comments

It is presumptuous on the part of CLT to allege that any data was released to Powers and Marshall (P&M) without appropriate safeguards. Only data that was pertinent to the properties reviewed by P&M was released to them, and for those properties, P&M is restricted from performing any appraisal work for a period of two years from the contract date.

¹ Executive summary – Page iii