

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF CHAUTAUQUA

0021-0009

In the Matter of the Application of

TARGET CORPORATION C/O TARGET PROPERTIES

NOTICE AND PETITION

Index No.

Petitioner(s)

-against-

THE BOARD OF ASSESSORS AND/OR THE ASSESSOR
OF THE TOWN OF ELLICOTT, AND THE BOARD OF
ASSESSMENT REVIEW.

Respondents.

Herman Katz Cangemi Wilkes & Clyne, LLP
538 Broadhollow Road, Suite 307
Melville, NY 11747
631-501-5011

VERIFICATION

STATE OF NEW YORK, COUNTY OF SUFFOLK) ss.:

The undersigned being duly sworn, deposes and says: I am the agent for the petitioner herein. I have read the foregoing petition and know the contents thereof; the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief and, that as to those matters, I believe it to be true. The reason this verification is made by me and not by petitioner is that all the material allegations (except those as to matters of public record) of said petition are within my personal knowledge.

/S/

Kevin M. Clyne, Esq.

Sworn to me this day:

July 1, 2022



DEBORAH VERLOTTE
Notary Public State of New York
No. 01VE6065331
Qualified in Suffolk County
Commission Expires: October 15, 2025

NOTICE OF PETITION

TO THE RESPONDENTS NAMED WITHIN: PLEASE TAKE NOTICE THAT, upon the annexed verified petition, an application will be made, pursuant to the provisions of the Real Property Tax Law at a Special Term for Tax Certiorari of this Court, to be held at the courthouse thereof, on September 29, 2022 at 9:30 a.m., or as soon thereafter as counsel can be heard, for the relief prayed for in said petition, upon the grounds set forth therein, and for such other and further relief as may be just and proper in the premises.

Dated: July 1, 2022

/S/

Kevin M. Clyne, Esq.

**Herman Katz Cangemi Wilkes & Clyne,
LLP**
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Melville, NY 11747
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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

The petitioner above-named by his attorney, Herman Katz Cangemi Wilkes & Clyne, LLP, respectfully alleges as follows:

1. At all times herein mentioned, petitioner was and still is an aggrieved party with respect to the assessment or assessments described below within the meaning of Section 706, Real Property Tax Law, State of New York, and the Board of Assessors and/or Assessor is the respondent herein (hereinafter referred to as 'the assessing jurisdiction').

2. The respondents have heretofore prepared, completed and perfected, purportedly according to law, an assessment roll for the assessing jurisdiction, for the assessment year 2022, which assessment roll included an assessment for petitioner's real property, set forth in Schedule A.

3. Petitioner duly made and filed with respondents a written application and statement under oath, to have said assessed valuation and exemption, if applicable, of said real property corrected and revised, specifying therein the respect in which the assessment complained of was incorrect, and which application and statement sought to reduce the assessment complained of as set forth in Schedule A. The application and statement are hereby referred to and made part hereof as though fully set forth herein.

4. Upon information and belief, a final decision and determination on the application and statement were duly rendered by respondents who failed to reduce the assessment as requested and confirmed or set the assessed valuation of petitioner's property as set forth in Schedule A.

5. Thirty days have not elapsed since the filing of the certified copy of the completed and verified assessment roll with notice thereof, or law day, whichever is later, as permitted by R.P.T.L. Sec. 702.

6. The assessment of petitioner's property is erroneous upon the following grounds: (a) Excessive, as fully defined in R.P.T.L. Sec. 522, (to the extent set forth in Schedule A); (b) Misclassification, the class designation is incorrect, as fully defined in R.P.T.L. Sec. 522; (c) Unequal, as fully defined in R.P.T.L. Sec.522, (to the extent set forth in Schedule A). The assessed value is at a higher percentage of value than the assessed value of other real property in the same class on the assessment roll and/or the assessed value has been made at a higher proportionate value than the assessments of all other real property on the assessment roll. The specified instances of such unequal assessment is the assessments of all the real property (or where applicable, in the same class on the same roll) in the assessing jurisdiction and each and every parcel thereof; and (d) Unlawful, in that this property and all real property in the assessing unit is not assessed at a uniform percentage of value and that it is based upon an assessment practice of selective or spot reassessment that has been declared illegal and unconstitutional by the Courts of the State of New York, as defined in R.P.T.L., and is unlawful as more fully defined in its entirety in R.P.T.L. Sec. 522.

6a. Each claim as set forth in Paragraph 6 above is defined in R.P.T.L. Sec 522 and is incorporated herein as if fully set forth.

7. In the event that the assessment at issue is or should be subject to an exemption or partial exemption that has been incorrectly calculated, or not set forth at all on the taxable assessment roll, the assessment should be reduced as it exceeds the statutory formula and/or is unlawful, unequal and excessive.

8. Petitioner is aggrieved and injured by said unequal, excessive, illegal, unlawful and/or misclassified assessment (as defined in R.P.T.L. Sec 522), and will be required to pay a greater amount and proportion of taxes than petitioner would be required to pay if the assessment had been equal and not excessive, illegal, unlawful, misclassified and erroneous.

9. No provision is made by law for an appeal or other relief from the final determination of the respondents except by a review by petition to the Supreme Court. No previous application for the relief herein asked has been made to any court or judge.

10. If there is more than one petitioner herein, the word "petitioner" shall mean "petitioners" or "each of the petitioners" as the context requires. As used herein the singular shall include the plural and the plural shall include the singular as the context requires.

11. Petitioner protests payment of said taxes based upon the within claims and upon the grounds that the tax rates are calculated incorrectly.

12. Petitioners are persons asserting grounds for review which present common questions of law or fact within the meaning of R.P.T.L. Sec 706(2).

13. Respondents assessments were promulgated contrary to the rules and regulations of Respondents, and are therefore void, illegal and unconstitutional.

14. The assessment is illegal in that it fails to comply with the requirements of R.P.T.L. Sec. 305(2).

15. The assessment is illegal in that it is not predicated upon market value of the subject property as of the appropriate taxable status and valuation dates.

16. The provisions of R.P.T.L. Sec. 727(1), (2), (4) as applied to the assessments under challenge herein, are illegal and unconstitutional, as violative of the Due Process and Equal Protection Clauses of the Federal and New York State Constitutions, and conflict with the standard of assessing under R.P.T.L. 302 and 305, if applicable.

17. The provisions of R.P.T.L. Sec. 739(1), (2), (3) as applied to the assessments under challenge herein, are illegal and unconstitutional, as violative of the Due Process and Equal Protection Clauses of the Federal and New York State Constitutions, and conflict with the standard of assessing under R.P.T.L. 302 and 305 if applicable.

18. The provisions referenced in paragraphs 16 and 17 above, are violative of Article 16, Sections 1 and 2 of the New York State Constitutions.

19. The assessment is unlawful and/or illegal as the Assessor and/or the Board of Assessors has included within the assessment non-assessable and/or non real property items, thereby violating R.P.T.L. Section 300, and the New York State Constitution.

20. The assessment has been arbitrarily maintained by respondents and the equalized or full value is not reflective of the true value of the property.

21. The assessments were set in violation of equitable, scientific and proper appraisal methodology for valuing real property.

WHEREFORE, petitioner prays that the Supreme Court review and correct on the merits the final determination of respondents on the grounds set forth in this petition, and that the Court take evidence to enable petitioner to show the unequal, excessive, unlawful, illegal, misclassified and erroneous assessment of the real property to the end that the assessment may be reduced to the value thereof for land and improvements, and to a valuation proportionate to the assessments of other real property, and/or other property in the same class, assessed on the same rolls for the same year, so that equality of assessments will result, and may be properly classified, and for such other and further relief as the Court may deem proper, together with the costs of disbursements of this proceeding.

SCHEDULE "A"

TARGET CORPORATION C/O TARGET PROPERTIES
v.
THE TOWN OF ELLICOTT
ITS ASSESSOR, AND BOARD OF ASSESSMENT REVIEW

<u>Property Description</u>	<u>Original Assessed Valuation (\$)</u>	<u>Claimed Assessment Valuation (\$)</u>	<u>Confirmed Assessment Valuation (\$)</u>	<u>Extent of Excessive and/or Unequal Assessment (\$)</u>
Sec. 386.10, BK. 1, Lot 8 975 FAIRMOUNT AVENUE	3,400,000	1,700,000	3,400,000	1,700,000
Grand Total	3,400,000			

AUTHORIZATION

The undersigned, certifies that they are a person whose property is assessed, and/or an agent thereof, and an aggrieved person within the meaning of the Real Property Tax Law, or an officer or partner of such aggrieved person, as complainant, and hereby designate and authorize the below named law firm or any other attorney designated by said firm, to act as my representative in any and all proceedings before the Board of Assessment Review and/or the Assessment Review Commission of the municipalities mentioned below for purposes of reviewing the assessment of my real property as it appears on the assessment roll of such municipalities for proceedings applicable to the date set forth below and to act as agent to verify, serve and file a petition for review of said real property assessment pursuant to Section 706 or 730 of the Real Property Tax Law and this applies to the property described below as follows:

LAW FIRM: Herman Katz Cangemi Wilkes & Clyne, LLP

TAX YEAR: 2022/23

ASSESSMENT YEAR: 2022

PETITIONER: Target Corporation c/o Target Properties

COUNTY: CHAUTAUQUA

MUNICIPALITY: TOWN OF ELLICOTT

TAX MAP I.D.: Section 386.10 Block 1 Lot 8

ADDRESS OF PREMISES: 975 Fairmount Avenue



By: [Signature]

Title: Gen. Mgr. Tax

Date: 12/22/21

0021-0009

January 3, 2022