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NYC fails to provide meaningful relief to thousands of suffering taxpayers

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A few months ago, I did not envision the "boys of summer" as the City Council arguing at the 11th hour over the appropriate interest rate to charge suffering landlords throughout the five boroughs. COVID had already closed New York City and the rest of the state as my last article was being written in April. Although my article said taxes would still come due in July, I was hoping to be proven wrong! After the City Council vote, it's official, taxes are still due in July and failure to pay timely comes with 18% interest! Interestingly, a small rogue collective of Council members proposed interest rates in the 1-2% range—while the bill was on the floor—but it was a bridge too far at that juncture. No different than Major League Baseball's owners and players squabbling over money, the City Council waited too long and came up way short of the mark.

The city is undoubtedly facing unprecedented short falls and a very uncertain near term future. In fact, Broadway just announced closures lasting through January 3rd, 2021, at a minimum. If NYC sets interest rates too low, they could encourage non-payment by both those truly unable to pay as well as those who strategically decide to hold their cash. At 1-2%, real estate speculators may be enticed to game the system when they know many properties may fold and banks may not be as eager to lend with the commercial real estate market's post-COVID realities. With that said, anyone with an understanding of basic real estate finance recognizes it isn't very challenging to set a rate of interest that would prevent or minimize "free rides" while still assisting a truly suffering landlord.

Suffice it to say, 18% interest will completely prevent "free rides" although it may cause a tidal wave of eventual property liens and foreclosures. Perhaps this is the city's way of forcing people to pay timely even if it means utilizing a high rate credit card to do so. Ironically, as is often the case, the smaller Mom and Pop-type owners will likely suffer a higher rate of loss as they can't easily access the funds to buy time. Of course, while many people anticipated COVID could crush hopes of a quick recovery, nobody anticipated the protests, looting and continually abandoned Midtown streets. On this very late June day, Manhattan's streets certainly don't resemble a V-shaped recovery. With little foot traffic and so many now working full-time from home, it's difficult to see how landlords will quickly make back these lost months.

Yet mayor de Blasio and the City Council have essentially done nothing for property owners, big and small, despite the severity of the situation. Not even a delay in the due date for July 1st tax bills. Some Council members would point to the provisions afforded some smaller properties (under $250,000 actual assessment), but there are too many obstacles and requirements to make the program truly useful. What small business owner currently has the time and means to document the required income changes, etc.? The initial rules seem onerous like the Federal PPP! No mercy whatsoever for anyone assessed over that level, as the City Council swiftly voted that 18% interest into place while the Fed Funds Rate is more or less zero!

A good example of the yet-to-be fully realized damage was a client exchange from this week. A seasoned operator with a mixed-use Manhattan apartment building; 100% of his retail tenants have not paid since March and 30% of his residential tenants have not paid. Needless to say the uncollected retail revenue is the lion's share of the rent roll. This property has an almost $400,000 annual real estate tax bill. While the taxes are certainly the largest expense for the property, utilities and required maintenance will swallow almost all of the paid residential rent for the year. The owner indicated he will not be able to pay any of the real estate taxes due. Realistically, even if the city provided extra time, where would the money come from unless retail tenants reoccupy their respective spaces and pay the rent in full? If New York City doesn't start to resemble more of its old self soon, the above example will go from bad to worse rapidly with 18% interest plus penalties.

In the end, this was an involuntary situation that has decimated affected property owners. Forced governmental closures lasting months should have resulted in better options for landlords, but as Albany, the mayor and City Council have demonstrated for the last 12-18 months, landlords do not deserve their sympathy or respect. Lastly, this situation should serve as a reminder that filing an annual tax assessment protest is pivotal even if the property is in great shape during the protest period.

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