



NEW YORK CITY COMPTROLLER
BRAD LANDER

Maura Hayes-Chaffe
Deputy Comptroller for Audit

Audit Report on the Department of Finance's Inclusion of Cell Tower Revenue in the Assessment of Real Property Taxes

SR20-080A | April 11, 2023



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

April 11, 2023

To the Residents of the City of New York,

My office has audited New York City Department of Finance (DOF) to determine whether DOF ensured that property owners reported cell site income on their RPIE statements. The Office of the New York City Comptroller conducts audits of City agencies such as this as a means of increasing accountability and to ensure that City receives all the funds to which it is entitled.

The audit determined that DOF did not use available data to ensure that all property owners reported cell site income on their 2017 and 2018 Real Property Income and Expense (RPIE) Statements. DOF did not identify unreported cell site income or make adjustments to gross income (known as “add backs”) totaling \$23.2 million, resulting in potential tax losses totaling \$9.1 million.

To address these issues, the audit recommends that DOF earmark properties that are not valued when DOF performs cell site add backs and review them during the change by notice period; adjust reported income for all properties for which property owners failed to report cell site income, retroactively, and recoup to the extent possible; and use available tools, such as the Department of Buildings Cellular Antenna Filings Report on an annual basis, and pictometry and field observations, to identify and verify the existence of cell sites and confirm with telecommunication companies whether those sites are in active use.

The results of the audit have been discussed with DOF officials and their comments have been considered in preparing this report. DOF’s complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander".

Brad Lander
New York City Comptroller

TABLE OF CONTENTS

- AUDIT IMPACT 1**
- Summary of Findings 1
- Intended Benefits 1

- INTRODUCTION 2**
- Background 2
- Objective 2
- Discussion of Audit Results with DOF 2

- DETAILED FINDINGS 4**
- DOF Did Not Add Back at Least \$23.2 Million in Unreported Cell Site Income 4
 - DOF Did Not Adjust Reported Income for Certain Properties Included on Its Master List 4
 - DOF Did Not Adjust Reported Income for Certain Properties Included on the DOB Cellular Antenna Filings List 5

- RECOMMENDATIONS 8**
- Recommendations Follow-up 8

- SCOPE AND METHODOLOGY 9**

- ADDENDUM**

AUDIT IMPACT

Summary of Findings

The Department of Finance (DOF) did not use available data to ensure that all property owners reported cell site income on their 2017 and 2018 Real Property Income and Expense (RPIE) Statements. DOF did not identify unreported cell site income or make adjustments to gross income (known as “add backs”) totaling \$23.2 million, resulting in potential tax losses totaling \$9.1 million.¹

Intended Benefits

The audit identified several ways DOF could timely identify existing cell sites and property owners who did not report cell sites income on their RPIE Statements.

¹ “Add backs” are adjustments to gross income that account for the unreported cell site income.

INTRODUCTION

Background

The Department of Finance (DOF) is responsible for administering and collecting taxes in New York City, which includes assessing all taxable real property, preparing assessment rolls, and collecting all real property taxes payable to the City.

Section 11-208.1(a) of the Administrative Code states that owners of income-producing property must submit an annual statement of income and expenses—the Real Property Income and Expense (RPIE) Statement—no later than June 1.² DOF uses this information to determine property values for the following tax year and, ultimately, to calculate property taxes.

Section 11-208.1(d)(6) of the Administrative Code states that DOF must notify income-producing property owners that they are required to file an RPIE Statement, or a claim of exclusion, on their property bill and on their notice of property value. If property owners fail to timely file an RPIE Statement, DOF may subpoena their books and records, compel them to submit the RPIE Statement, and assess penalties and interest.

Cellular carriers pay property owners to allow the carrier to install telecommunications equipment, like cell towers or antennae. The fees paid to property owners for use of these “cell sites” are considered taxable income, and as such, must be reported on RPIE Statements. According to DOF, property owners reported cell site income totaling \$126,194,720 for 2,816 properties for Calendar Year 2017, and \$134,714,937 for 2,988 properties for CY 2018.

Objective

The objective of this audit was to determine whether DOF ensured that property owners reported cell site income on their RPIE statements.

Discussion of Audit Results with DOF

The matters covered in this report were discussed with DOF officials during and at the conclusion of this audit. An Exit Conference Summary was sent to DOF on January 12, 2023, and discussed with DOF officials at an exit conference held on January 25, 2023. On March 10, 2023, we submitted a Draft Report to DOF with a request for written comments. We received a written response from DOF on March 29, 2023.

In its response, DOF stated that, “In general, DOF agrees that it can improve quality control of cell tower revenue information to ensure that it [is] included in property assessments but it finds that the Comptroller’s Office has overstated the potential revenue for the specific properties it reviewed.”

² Section 11-208.1(e) of the Administrative Code defines “income-producing property” as property owned for the purpose of generating income from leasing or renting. The code stipulates that this definition shall not include: (1) property with an assessed value of \$40,000 or less, (2) residential property containing 10 or fewer dwelling units, or (3) property containing six or fewer dwelling units and one retail store. Section 11-208.1(d)(6) states that DOF must notify property owners of their obligations to file an RPIE Statement, or, if applicable, a claim of exclusion.

DOF's written response has been fully considered and, where relevant, changes and comments have been added to this report.

The full text of the DOF's response is included as an addendum to this report.

DETAILED FINDINGS

DOF did not use available data to ensure that all property owners reported cell site income on their 2017 and 2018 RPIE Statements. The audit found that DOF did not identify unreported cell site income or make adjustments to gross income (known as “add backs”) totaling \$23.2 million, resulting in potential tax losses totaling \$9.1 million.

DOF Did Not Add Back at Least \$23.2 Million in Unreported Cell Site Income

DOF maintains a list of properties that generate cell site income, known as the “Master List.” DOF compiles this list based on existing data recorded by assessors in the Computer Assisted Mass Appraisal/Vision (CAMA) system. DOF also uses information reported by: (1) telecommunications companies each year, (2) property owners on prior RPIE Statements, and (3) the Department of Buildings (DOB) regarding permits for the installation of cell antenna or other equipment (DOB Cellular Antenna Filings).

To identify property owners who did not report cell site income, DOF compared the Master List with cell site income reported on RPIE Statements for 2017 and 2018.³ For 2017, DOF identified 1,267 properties with unreported estimated income totaling \$44,446,026. Similarly, for 2018, DOF identified 1,363 properties with unreported estimated income totaling \$44,636,122. DOF adjusted reported income for these property owners and estimated the combined potential tax impact to be \$35,281,455.

However, the auditors found unreported cell site income and needed adjustments to gross income that were missed by DOF. Based on a comparison of DOF and DOB records, the auditors found additional unreported cell site income for 2017 and 2018 of \$23,182,926. Based on these calculations, the auditors estimate that DOF failed to assess and collect \$9,050,760 in taxes, as detailed below.

DOF Did Not Adjust Reported Income for Certain Properties Included on Its Master List

Based on the auditors’ analysis of DOF’s Master List and list of property owners who reported cell site income, DOF did not adjust reported income for 148 properties for which owners failed to report estimated cell site income in 2017, totaling \$6,459,335. Similarly, for 2018, DOF did not adjust reported income for 149 properties, totaling \$6,562,845. The auditors estimated the combined potential tax impact to be \$5,015,990, as detailed in Table 1 below.⁴

³ The RPIE Statement for 2017 included income derived from and expenses attributable to the property for CY 2017 and should have been filed by June 1, 2018. DOF used the RPIE Statement for 2017 to value property for the following tax year (i.e., July 1, 2018 through June 30, 2019). The RPIE Statement for 2018 included income derived from and expenses attributable to the property for CY 2018 and should have been filed by June 3, 2019. DOF used the RPIE Statement for 2018 to value property for the following tax year (i.e., July 1, 2019 through June 30, 2020).

⁴ For each year, DOF developed guidelines for adjusting income which were based on the median income for cell sites located within the same neighborhood (DOF Cell Site Guidelines). The auditors used DOF’s Cell Site Guidelines to

Table 1
Unreported Cell Site Income based on Comparison of DOF Records for
Calendar Years 2017 and 2018

	Number of Properties Identified by the Auditors as Not Reporting Cell Site Income	Estimated Unreported Cell Site Income Identified by the Auditors	Estimated Tax Impact Identified by the Auditors
2017	148	\$6,459,335	\$2,500,788
2018	149	\$6,562,845	\$2,515,202
Total		\$13,022,180	\$5,015,990

For most of the above-cited properties, DOF officials stated that DOF did not adjust reported income because the properties were not valued when DOF performed add backs. DOF explained that “cell site add backs are only done on parcels that have been valued at the time of cell site add back SQL mid to late December.”

DOF officials also indicated that it had adjusted reported income for 29 of the 148 properties in 2017 and 18 in 2018. The auditors were unable to verify this because the add back amount was generally not added to the CAMA system.⁵ DOF acknowledged that this is the case, noting that while the assessor is required to add a property note regarding his or her adjustment to income (and expense) the assessor often does not specify the amount of the add back. In its written response, DOF stated it will “split the dual addback income source code for cell site and billboards into two separate codes, for the forthcoming valuation season, Fiscal Year (“FY”) 2024/25. This change will eliminate any element of doubt with future addbacks for cell site income.”

DOF Did Not Adjust Reported Income for Certain Properties Included on the DOB Cellular Antenna Filings List

Based on the auditors’ comparison of DOF records and the DOB Cellular Antenna Filings list, DOF did not adjust reported income for additional property owners who did not report cell site income. Specifically, DOF did not identify and adjust reported income for 401 properties for which property owners failed to report cell site income for 2017, and 398 properties for which property owners failed to report cell site income for 2018.⁶

This happened because DOF did not consistently use the DOB Cellular Antenna Filings to identify property owners who were required to report cell site income and include their properties on the Master List.

Regarding RPIE 2017, DOF did subsequently identify 177 of the 401 properties (44.1%) as cell sites and added them to the Master List. Similarly, regarding RPIE 2018, DOF identified 183 of

estimate the dollar amount of unreported cell site income. The auditors then estimated the potential tax impact based on the estimated unreported cell site income, an average capitalization rate, and the level of assessment and tax rate based on property tax class.

⁵ On July 27, 2022, the auditors reviewed the CAMA “user audit trail” to determine whether DOF adjusted reported income.

⁶ RPIE 2017 includes 50 properties that were Tax Class 2A, or 2B and RPIE 2018 includes 26 Tax Class 2A, or 2B and were subject to assessment caps.

the 398 properties (46%) as cell sites and added them to the Master List.⁷ Although DOF added properties as cell sites and added them to Master Lists for later years, DOF did not retroactively add back income for RPIE 2017 or 2018.

Had DOF used the DOB Cellular Antenna Filings to identify properties in those years, it could have adjusted reported income for 150 properties from RPIE 2017, totaling \$4,802,351; and 161 properties from RPIE 2018, totaling \$5,358,395.⁸ The auditors estimate the combined potential tax impact to be \$4,034,770, as detailed in Table 2 below.

Table 2
Unreported Cell Site Income based on Comparison of DOB and DOF Records for
Calendar Years 2017 and 2018

	Number of Properties Identified by the Auditors as Not Reporting Cell Site Income	Estimated Unreported Cell Site Income Identified by the Auditors	Estimated Tax Impact Identified by the Auditors
2017	150	\$4,802,351	\$1,913,401
2018	161	\$5,358,395	\$2,121,369
Total		\$10,160,746	\$4,034,770

DOF officials informed the auditors that DOF had used the DOB Cellular Antenna Filings for RPIE Year 2017 and for RPIE Year 2021. According to DOF officials, DOF did not consistently use DOB Cellular Antenna Filings, instead opting to rely solely on information reported by telecommunications companies since they attest to the accuracy of their filings. DOF stated that the department was “unaware of any verification of actual active use [of cellular equipment] with DOB Cellular Antenna filing data,” and thus only relies on the data periodically.

DOF’s Guide to Assessment Policies and Procedures FY2021 Cell Site states that DOF can use observation or Pictometry to confirm cell sites and add income based on DOF guidelines.⁹ However, DOF did not use these tools to verify the existence of cell sites and add income or ask telecommunication companies to verify active use. Using all available data and tools would not only help DOF ensure property owners are reporting cell site income as required but would also enhance the agency’s ability to timely identify and realize additional tax revenue for the City.

In its written response, DOF stated that it added back cell site income for certain properties cited in the report and that certain other properties were fully or partially tax exempt. However, DOF did not identify the properties in question. During the audit, DOF provided the auditors with lists of properties for which it added back cell site income and lists of properties which were exempt from property taxes or had claims of exclusion. The auditors reviewed lists and relevant

⁷ DOF added the properties to the Master Lists for RPIE 2018, 2019, and 2020. DOF added most of the properties to the Master List for RPIE 2020.

⁸ For 27 properties in RPIE 2017 and 22 properties in RPIE 2018, the auditors did not estimate unreported cell site income and potential tax impact. Those properties were classified as Tax Class 2A, 2B, or 2C and were subject to assessment caps.

⁹ Pictometry is an aerial survey technique which uses low-flying airplanes to photograph buildings and ground locations.

supporting documentation and removed properties as warranted. Therefore, the auditors did not find any basis to modify the findings.

Additionally, DOF stated that the report overstated potential unreported income and tax impact. However, the team estimated unreported cell site income using the same methodology and data that DOF uses when calculating add backs. The team estimated potential tax impact using a methodology provided by DOF which was based, in part, on actual assessed value. Therefore, the auditors did not find any basis to modify the findings.

RECOMMENDATIONS

To address the detailed findings, the auditors recommend that DOF:

1. Earmark properties that are not valued when DOF performs cell site add backs and review them during the change by notice period.

DOF agreed with this recommendation.

2. Adjust reported income for all properties for which property owners failed to report cell site income, retroactively, and recoup to the extent possible.

DOF Response: Although DOF disagreed with this recommendation and stated that DOF doesn't have the authority to audit line items on RPIE Statements, DOF reported that it "did addbacks for cell tower income in the respective change by notice periods for the first time in FY 2023/24.... DOF completed addbacks to 11 properties in tax class 2, adding a total additional \$321,406 in income to the 11 parcels and completed another 20 parcels in tax class 4 adding a total of \$957,039 in income."

3. Use available tools, such as the DOB Cellular Antenna Filings Report on an annual basis, and Pictometry and field observations, to identify and verify the existence of cell sites and confirm with telecommunication companies whether those sites are in active use.

DOF Response: DOF partially agreed with this recommendation. DOF stated that it "completes many checks for cell sites using both Pictometry...and field inspections, ...although, these inspections do not always result in an accurate accounting of active cell sites. The mere presence of cell equipment does not guarantee a revenue stream to the installed property.... DOF does not have the capability nor available resources to contact a telecommunications company for every parcel where a DOB permit has been issued. DOF agrees that a more frequent review of the DOB Cellular Antenna Filings Report may be instructive, but not a definitive source for cell site addbacks."

Auditor Comment: DOF should periodically confirm with telecommunication companies whether cell sites identified through the DOB Cellular Antenna Filings, Pictometry, and field observations are in active use.

Recommendations Follow-up

Follow-up will be conducted periodically to determine the implementation status of each recommendation contained in this report. Status updates are reported in the Audit Recommendations Tracker available here: <https://comptroller.nyc.gov/services/for-the-public/audit/audit-recommendations-tracker/>

SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit covered RPIE Statements for 2017 and 2018. The RPIE Statement for 2017 included income derived from and expenses attributable to the property for CY 2017 and should have been filed by June 1, 2018. DOF used the RPIE Statement for 2017 to value property for the following tax year (i.e., July 1, 2018, through June 30, 2019). Similarly, the RPIE Statement for 2018 included income and expenses for CY 2018 and should have been filed by June 3, 2019. DOF used the RPIE Statement for 2018 to value property for the following tax year (i.e., July 1, 2019, through June 30, 2020).

To obtain an understanding of the policies and procedures that DOF has in place to ensure that property owners report cell site income, the auditors interviewed DOF officials and reviewed Title 11, Chapter 2 section 11-208.1 of the Administrative Code of the City of New York and the RPIE Income and Expense Worksheet and Instructions.

The auditors requested that DOF provide the files which contained properties, identified by Borough, Block and Lot (BBL), for which the owners reported cell site income on RPIE Statements for 2017 and 2018, and the amount of reported cell site income. To assess the reliability of the information received from DOF, the auditors selected a random sample of 100 properties from each of the two files provided (i.e., one file each for RPIE 2017 and RPIE 2018). For the sampled properties, the auditors used DOF's Property Address Search to verify the BBL information, and the auditors used DOF's Automated City Register Information System (ACRIS) and DOB's Building Information System (BIS) to verify the street address.

To verify the reported cell site income amount in the files provided by DOF, the auditors selected a random sample of 50 items each from the files pertaining to RPIE 2017 and RPIE 2018. The auditors observed a DOF official enter the BBL information into the RPIE database to verify whether the amount of cell site income shown in the system agreed with the amount listed for each BBL on the files provided to us.

The auditors reviewed the files DOF provided to determine the number of property owners per unique BBL number that reported cell site income to DOF.

In addition, the auditors obtained DOF's Master File of cell sites, one for each of CY2017 and CY 2018.

For RPIE 2017 and RPIE 2018, the auditors compared the DOF Master List and the DOF list of property owners who reported cell site income to determine whether property owners reported cell site income to DOF.

If property owners failed to report cell site income, the auditors reviewed DOF records to determine whether properties met exemption criteria or property owners filed a Claim of Exclusion. As previously stated, the Administrative Code states that "income-producing property"

shall not include: (1) property with an assessed value of \$40,000 or less, (2) residential property containing 10 or fewer dwelling units, and (3) property classified as class one or two which contains six or fewer dwelling units and one retail store. The auditors also reviewed DOF records to determine whether DOF added back cell income for those property owners who were required to but did not self-report cell site income.

For exceptions, the auditors used DOF's Cell Site Guidelines to estimate the dollar amount of unreported cell site income. The auditors then estimated the potential tax impact based on the estimated unreported cell site income, an average capitalization rate, and the level of assessment and tax rate based on property tax class.

In addition, the auditors requested and received from DOB officials a report of Cellular Antenna Filings for all jobs and were provided with a report covering the period from July 2005 through March 5, 2020. Permits are required before cell antennas can be placed on a property located in the City and DOB is the agency authorized to issue such permits.

The auditors used the DOB Cellular Antenna Filings list to independently identify potential cell sites for which property owners may have been required to report cell site income to DOF on RPIE Statements for 2017 and 2018. The auditors identified properties which a permit was "signed off" to install a cell antenna in buildings or structures under DOB's jurisdiction, which means that the job was completed. The auditors identified permits which had a job status of "signed off" on or before December 31, 2017, and on or before December 31, 2018. Further, the auditors reviewed the job description field. The auditors selected for the testing population those properties which they determined cell equipment was installed and therefore, properties may have been active cell sites.

For RPIE 2017 and RPIE 2018, the auditors compared their list of potential cell sites to the DOF Master List and the DOF list of property owners who reported cell site income. If property owners failed to report cell site income, the auditors reviewed DOF records to determine whether properties were exempt or filed a Claim of Exclusion or DOF adjusted reported income.

The auditors submitted a list of exceptions to DOF officials for their review. Additionally, the auditors checked whether DOF included any of these properties on Master Lists developed by DOF in subsequent years.

For properties which were subsequently identified by DOF as cell sites, the auditors used DOF's Cell Site Guidelines to estimate the dollar amount of unreported cell site income. The auditors then estimated the potential tax impact based on the estimated unreported cell site income, an average capitalization rate, and the level of assessment and tax rate based on property tax class.

Although the results of our sampling tests were not projectable to their respective populations, these results, together with the results of our other audit procedures and tests, provided a reasonable basis for us to determine whether DOF ensured that property owners reported cell site income on their RPIE statements.

Property Division
66 John Street
New York, NY 10038

Timothy Sheares
Deputy Commissioner
ShearesT@Finance.nyc.gov

Ms. Maura Hayes-Chaffe
Deputy Comptroller for Audit
Office of the Comptroller
One Centre Street
New York, NY 10007-2341
Sent via e-mail: mhayes1@comptroller.nyc.gov

RE: Draft Report on the Audit of the
Department of Finance's Inclusion of Cell Tower
Revenue in the Assessment of Real Property Taxes
(Audit #SR20-080A)

Dear Deputy Comptroller Hayes-Chaffe,

This letter serves as the Department of Finance ("DOF") response to the Comptroller's Draft Audit Report on the Department of Finance's Inclusion of Cell Tower Revenue in the Assessment of Real Property Taxes. The objective of the audit is to determine whether DOF ensured that property owners reported cell site income on their Real Property Income and Expense ("RPIE") statements for RPIE years 2017 and 2018. In general, DOF agrees that it can improve quality control of cell tower revenue information to ensure that it included in property assessments but it finds that the Comptroller's Office has overstated the potential revenue for the specific properties it reviewed.

I. Background

Owners or representatives of income-producing properties with an actual assessed value of more than \$40,000 on the tentative assessment roll must file a Real Property Income and Expense (RPIE) statement or file a claim of exclusion by June 1st. The DOF RPIE Worksheet and corresponding Instructions for tax year 2022, both refer to Cell Site Income in the Property Use, within the *Vacancy and Income Information* section. An important caveat with submitted RPIE forms is that DOF has no authority to audit line-item inclusions or exclusions, for 100%-complete filing accuracy.

From the auditor's report, in 2017, DOF identified 1,267 properties with unreported estimated income totaling \$44,446,026 and in 2018, DOF identified 1,363 properties with unreported estimated income totaling \$44,636,122. DOF is appreciative for the auditor's

review of additional data, submitted after the exit conference, and revising preliminary findings and recommendations accordingly.

DOF however, must disagree with the auditors' estimate of potentially missed tax losses of \$9.1 million, since factors that reduce the potential tax revenue were not considered.

Concerning Table 1

Table 1 of the Audit Report identifies 148 parcels in RPIE Year 2017 and 149 parcels in RPIE Year 2018, which DOF identified as having an active cell site with no cell site income reported and did not complete cell site addbacks. This issue represented \$5.01 million of the potential \$9.1 million total tax loss.

- For RPIE Year 2017, 29 of the parcels cited had an income addback using the DOF income code for both cell sites and billboards, but because the dollar amount was not specified in the assessor property note, DOF is not receiving credit for addback. For RPIE Year 2018, there were 18 parcels that had an income addback using the cell site and billboard income code.
 - In response to this issue concerning addbacks, DOF has opted to split the dual addback income source code for cell site and billboards into two separate codes, for the forthcoming valuation season, Fiscal Year (“FY”) 2024/25. This change will eliminate any element of doubt with future addbacks for cell site income.
- Another relevant point concerning the 148 parcels cited for RPIE Year 2017 is that 69 of the 148 parcels were valued indexed in FY 2019/20, based on the market value of FY 2018/19 and these parcels had cell site income added in FY 2018/19 from a script run in our *Computer Assisted Mass Appraisal* system (‘CAMA’).
 - Thus, the market value for FY 2019/20 is reflective of cell site income. The 69 parcels had a total of \$3,130,441 in cell site income added in FY 2018/19.
 - For RPIE Year 2018, there were 149 parcels cited and 23 of those parcels were value indexed in FY 2020/21 based on the market value of FY 2019/20 and these parcels had cell site income added in FY 2019/20 from a script run in CAMA. The 23 parcels had a total of \$963,376 in cell site income added in FY 2019/20.
- 24 of the parcels cited for RPIE 2017 and 23 of the parcels cited for RPIE 2018, were fully tax exempt and had a \$0 taxable billable in FY 2019/20 and FY 2020/2021.
 - Cell site addbacks for these parcels would not have had any impact on taxes levied.
- At least 44 parcels in RPIE 2017 and 46 parcels from RPIE 2018 had partial property tax exemptions. As such, the reported potential tax loss figure is higher than it should be because the exemption values would increase with the increased market values resulting from the addition of cell site income.
 - The property tax exemptions awarded these selected parcels for the relevant fiscal year were Veterans, Senior Citizen (“SCHE”), Disabled Homeowner

("DHE"), 420C Housing, J-51 Alteration, Industrial Commercial Abatement Program ("ICAP"), 421-A, Student Dormitory, Special Initiative Program and Division of Alternative Management, ("DAMP"). *The list of parcels does not include those parcels that just had the School Tax Relief exemption benefit.*

- In addition, the reported potential tax loss figure is based on the actual assessed values. However, per Real Property Tax Law, tax calculations are based upon the lower of the actual assessed value or the transitional assessed value for tax class 2 and 4 parcels.
 - Assuming year-over-year increases in market value for a parcel, which was the case for aggregate tax class 2 and 4 parcels for the selected time frame, the transitional assessed value would be lower than the actual assessed value.

Concerning Table 2

Table 2 of the Audit Report identifies 150 parcels in RPIE Year 2017 and 161 parcels in RPIE Year 2018, which were on the Department of Building ("DOB") *Cellular Antenna Filings List* for each RPIE year but did not have cell site income or addbacks added by DOB. The auditors calculated the estimated potential tax loss to be \$4.01 million of the total \$9.1 potential tax loss per the audit.

- For RPIE 2017, 19 of the parcels cited had an income addback using the DOB code used for both cell sites and billboards, but because the dollar amount was not specified in the assessor property note, DOB is not receiving credit for the addback. For RPIE 2018, there were 18 parcels that had an income addback using the cell site and billboard addback code.
 - As aforementioned, in response to this addback issue, DOB has opted to split the dual addback income source code for cell site and billboards into two separate codes for the forthcoming valuation season, FY 2024/25. This change will eliminate this type of uncertainty with future addbacks for cell site income.
- 18 of the parcels cited for RPIE 2017 and 24 of the parcels cited for RPIE 2018, were fully tax exempt and had a \$0 taxable billable in Fiscal Year 2019/20 and Fiscal Year 2020/2021.
 - Cell site addbacks for these parcels would not have had any impact on taxes levied.
- At least 34 parcels in RPIE 2017 and 34 parcels from RPIE 2018, had partial property tax exemptions, thus making the potential tax loss figure higher than it should be. Exemption values would increase with the increased market values because of the cell site income being added.
 - The property tax exemptions awarded these selected parcels for the relevant fiscal year were Veterans, Senior Citizen ("SCHE"), Disabled Homeowner ("DHE"), J-51 Alteration, Industrial Commercial Abatement Program ("ICAP"), Urban Renewal ("UDAAP"), IDA-PILOT, 421-A and Division of

Alternative Management (“DAMP”). *The list of parcels does not include those parcels that just had the School Tax Relief exemption benefit.*

- In addition, the reported potential tax loss figure is based on the actual assessed values, but the Real Property Tax Law dictates that tax calculation is based upon the lower of the actual assessed value or the transitional assessed value for tax class 2 and 4 parcels.
 - Assuming year-over-year increases in market value for a parcel, which was the case for aggregate tax class 2 and 4 parcels for the selected time frame, the transitional assessed value would be lower than the actual assessed value.

II. DOF’s Response to Recommendations

1. Earmark properties that are not valued when DOF performs cell site addbacks and review them during the change by notice (CBN) period.

DOF agrees.

DOF did addbacks for cell tower income in the respective change by notice periods for the first time in FY 2023/24, tax class 1 and 2 parcels have a different deadline than tax class 4. DOF identified 55 parcels that were on the cell site master list and were valued via income but did not have cell tower income reflected in their FY 2023/24 market value.

DOF completed addbacks to 11 properties in tax class 2, adding a total additional \$321,406 in income to the 11 parcels and completed another 20 parcels in tax class 4 adding a total of \$957,039 in income. Due to the shorter time frame allowed for tax class 1 and 2 parcels, February 10th, 2023; DOF was unable to get all tax class 2 parcel addbacks completed this FY.

In RPIE Year 2017 and in RPIE Year 2018, completing income valuation changes in the change by notice period was atypical and rarer than this contemporary approach.

2. Adjust reported income for all properties for which property owners failed to report cell site income, retroactively, and recoup to the extent possible.

DOF disagrees.

DOF values properties annually, to reflect the value of the parcels on the taxable status date, January 5th. Following taxable status date and the subsequent releasing of the tentative property roll, DOF has defined deadlines for the Change by Notice period by tax class, to determine when it becomes illegal to raise market values and assessment values.

Change By Notice deadlines/periods are created by Chapter 58, Section 1512 of the New York City Charter¹. Tax Class 1 and 2 Change by Notice (CBN) deadline for FY 2023/24 was February 10, 2023, and the Tax Class 4 CBN deadline is April 17, 2023. These deadlines are about this same time every year. Once the deadlines past, DOF is unable to increase market

¹ New York City Charter, page 278 [chrome-extension://bdfcnmeidppjeaggnmidamkiddifkdib/viewer.html?file=https://www.nyc.gov/html/records/pdf/section%201133_citycharter.pdf].

values and assessment values. In addition to this statutory defined limitation on retroactively assessing property taxes, DOF does not have the authority to audit line-items on the RPIE statements filed with the agency for 100%–complete filing accuracy.

- 1. Use available tools, such as the DOB Cellular Antenna Filings Report on an annual basis, and Pictometry and field observations, to identify and verify the existence of cell sites and confirm with telecommunication companies whether those sites are in active use.**

DOF *partially agrees.*

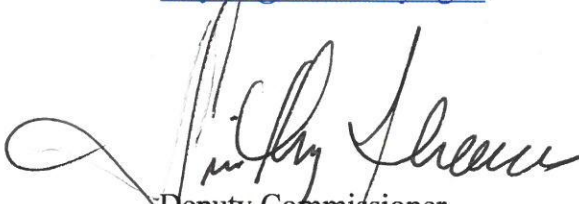
DOF completes many checks for cell sites using both Pictometry (provider of time stamped aerial satellite imagery of tax lots) and field inspections, from the annual production of the property tax roll - although, these inspections do not always result in an accurate accounting of active cell sites.

The mere presence of cell equipment does not guarantee a revenue stream to the installed property. Cell antennas seen in the field, be it on a roof or a side of building may have been decommissioned by the associated telecom company. This occurs frequently as the industry is constantly updating its technology and replacing equipment without removal of its old equipment.

DOF uses the Real Estate of Utility Corporations (REUC) RPIE information, as it contains information reported by telecommunication companies for the annual June 1st RPIE reporting deadline. The reporting of cellular equipment is a requirement for REUC companies and employing this resource allows DOF privy to active sites that have not been reported on ordinary real estate RPIEs and could have cell site add backs.

DOF does not have the capability nor available resources to contact a telecommunications company for every parcel where a DOB permit has been issued. DOF agrees that a more frequent review of the DOB Cellular Antenna Filings Report may be instructive, but not a definitive source for cell site addbacks. As noted within the Auditors report, DOF is unaware of active use on those parcel sites which have been granted permits.

Thank you for the opportunity to respond to the Draft Report. If you have any questions concerning our response to your audit findings, please let us know. Please contact Sam Mayer, Assistant Commissioner of Internal Audit at (212) 291-2536 or by email at mayers@finance.nyc.gov.



Deputy Commissioner
Timothy Sheares



NEW YORK CITY COMPTROLLER
BRAD LANDER

1 Centre Street, New York, NY 10007

www.comptroller.nyc.gov

 @NYCComptroller

(212) 669-3916