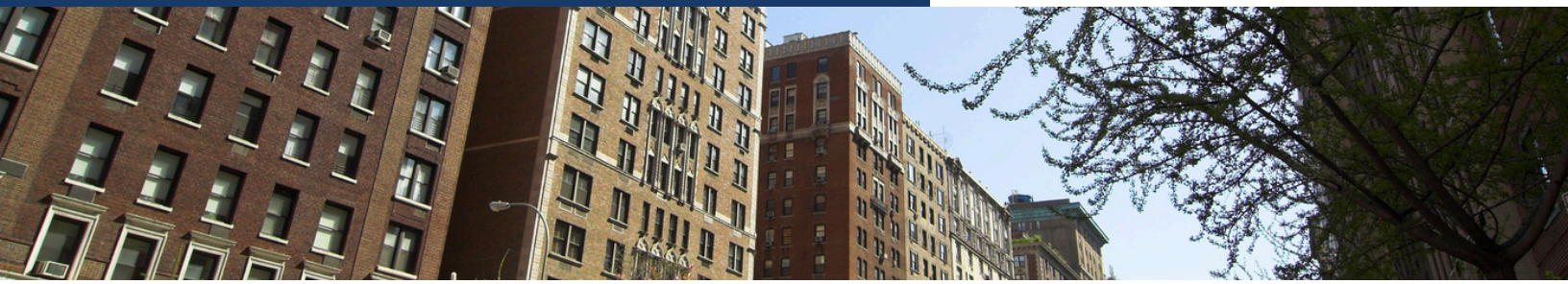
LAW ALERT
June 29, 2026
By: Douglas F. Wasser Esq.
David N. Milner Esq.

RUSKIN MOSCOU FALTISCHEK P.C.
Smart Counsel. Straight Talk.



New York's Pied-à-Terre Tax
A Challenge for NYC's Co-op Community
Part II - Specific Risks to Co-ops

As part of New York's Fiscal Year 2026 budget, a new tax surcharge was created, commonly known as a "pied-à-terre tax," targeting high-value nonprimary residences in New York City.

When we last met for **Part I** of this Alert, we discussed:

- This new tax surcharge and how the assessment is calculated; and
- The shift in the tax collection practice whereby co-op apartment corporations (each a "Co-op") will now have to advance the payment of a pied-à-terre's shareholder's tax surcharge to the City, and thereafter collect reimbursement from the shareholder.

This **Part II** digs deeper into just some of the risks to Co-ops which can result when the City shirks its pied-à-terre tax collection responsibilities and hangs that burden on the shoulders of a Co-op. These risks and questions include:

1. The credit risk is shifted from the City to the Co-op. For example, if the shareholder files for bankruptcy it will be the Co-op, and not the City, which will suffer the financial consequences;
2. The Co-op will have the burden to pay the tax surcharge to the City without having any direct knowledge of facts sufficient to contest the surcharge. The Co-op even lacks the opportunity to conduct a contest;
3. The pied-à-terre tax surcharge (*on high-value apartments – See Part I*) starts at $40,000 per year per unit. A Co-op with multiple high-value pied-à-terre units will face a financial drain;
4. New York City has government infrastructure and resources for aggressive tax collection. Co-ops do not have such resources, nor the funding, nor the skillset to aggressively enforce surcharge collections from their shareholders;
5. We expect that some pied-à-terre shareholders will first learn of this tax surcharge when they see a surprisingly large invoice from their Co-op for surcharge reimbursement. Aggressive resistance to reimbursement may then be the result;

6. Co-ops will be compelled to engage in adversarial proceedings against their neighbors and long-time friends to recover reimbursement.

7. There is no current guidance in the event of inconsistent rulings. If the City Department of Finance (the "Department") determines that a residence is a high-value pied-à-terre, will a Court be bound by that holding in a subsequent Co-op reimbursement claim?;

8. Lenders who collect escrows for real estate taxes may have to increase escrow collections to account for these surcharges;

9. A pied-à-terre shareholder will have a limited ability to challenge his own apartment market value because his valuation is statutorily equal to his apartment's percentage of the building's valuation. But the shareholder has no vote in fixing that building-wide valuation. Does the Co-op now have an implied duty to potential pied-à-terre shareholders to aggressively seek building valuation reductions?;

10. A shareholder will have the right to contest an adverse nonprimary residency determination by the Department. It may be too early to tell, but the timing for a hearing may be tight and allowable evidence may be limited, particularly for the already commenced 2026 fiscal year. Shareholder frustration with that process may also contribute to reimbursement resistance.

11. The Co-op's reimbursement claim against a pied-à-terre shareholder may arise after the shareholder's apartment is sold. Will the reimbursement claim now be payable by the buyer? Will a Co-op have to chase after the former shareholder in his new home jurisdiction?;

12. The statute provides for a reimbursement remedy in favor of the Co-op against the pied-à-terre shareholder (New York State Tax Law (Article 30-C) §1354(c):"….*Notwithstanding any provision of law to the contrary, …….each such surcharge shall be collected by the cooperative corporation from the tenant-stockholder of such cooperative…..")* But we don't yet know if this reimbursement can be characterized as "rent" or "maintenance", for which summary proceedings are available - with legal fee reimbursement as usually provided in the proprietary lease. Or, as a general debt, which is collectible by slow plenary claim, and for which legal fee reimbursement may not be available.

13. High-value units used for short-term rental purposes (Airbnb, Vrbo, etc.) are not exempt from the tax surcharge. So, profiteering by such tenant-shareholders needs to be policed by the Co-op.

Stay tuned for Part III for a discussion on steps Boards should consider to mitigate risks.

For more information, please contact:

Douglas F. Wasser, Esq.
(516) 663-6558
dwasser@rmfpc.com

David N. Milner, Esq.
(516) 663-6654
dmilner@rmfpc.com