

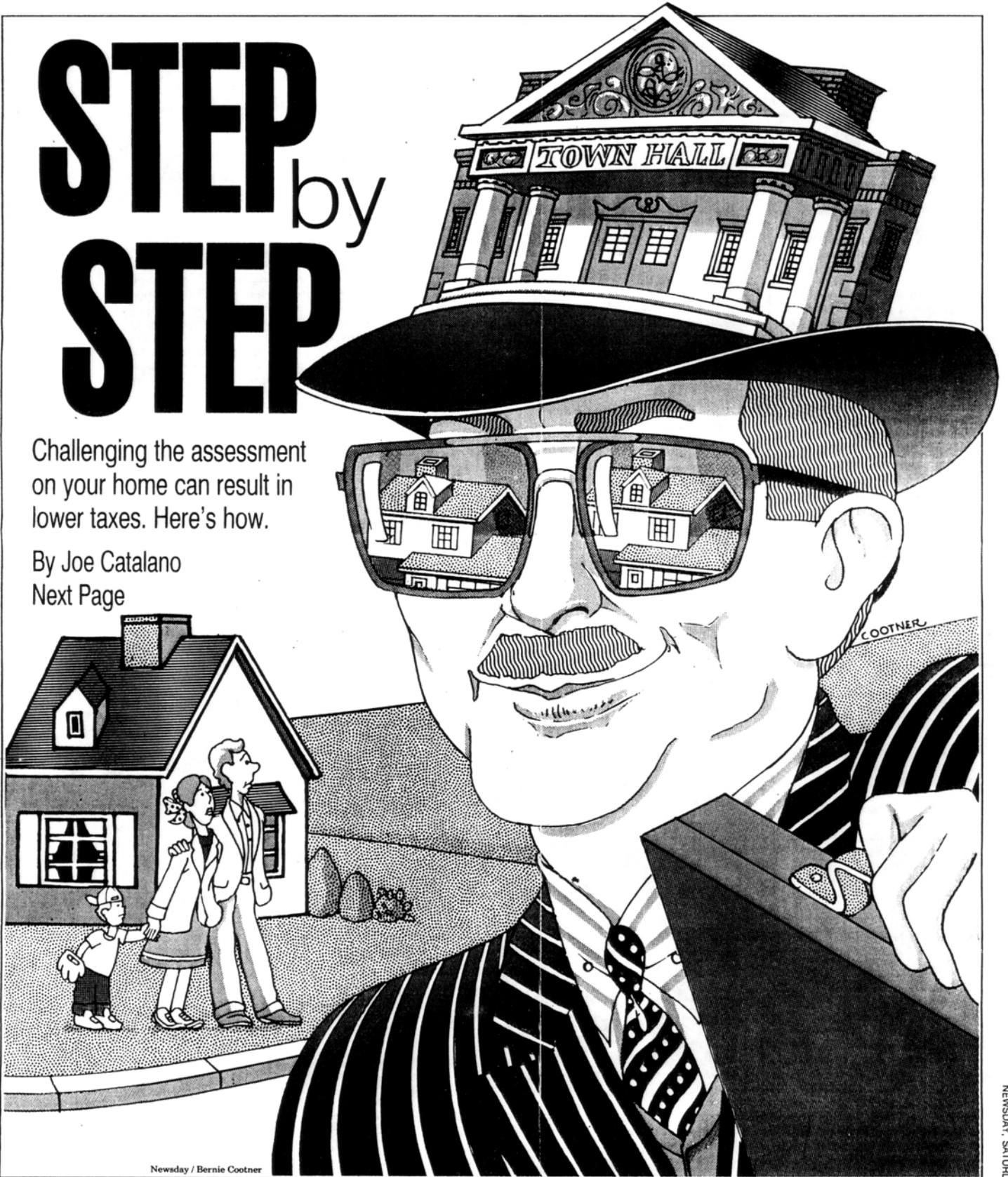
A Weekly Report
On the Local And
National Markets

Real Estate

STEP by STEP

Challenging the assessment on your home can result in lower taxes. Here's how.

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STEP by STEP

By Joe Catalano

ONCE A YEAR, homeowners who think their property taxes are too high can do something about it. They can attempt to prove that the assessments on their homes are out of synch with market value. If they succeed, the assessments will be reduced — and so will their taxes, which are based on the assessments.

This is becoming a popular activity in the region — particularly on Long Island, which has had huge property tax increases in recent years. Lower taxes, besides the obvious cost benefit to the homeowner, make a residence easier to sell and worth more than similar homes with higher taxes, real estate brokers say.

On the Island, the time for action is rapidly approaching. The filing period for assessment challenges in both Nassau and Suffolk is May 1 through May 19. New York City residents must wait until next January.

Last year, 100 homeowners challenged their assessments in Smithtown, compared with 20 in 1990, said Gregory Hild, the town's assessor. In Nassau, petitions for second-phase challenges have tripled every year for the past four years, soaring to 9,260 in 1991, according to State Supreme Court Justice Leo McGinity, the county's chief administrative judge. The huge caseload and state budget cuts forced a halt in hearings between November and March. Although hearings resumed April 1, there is still a backlog.

Property taxes are figured by taking the home's assessment and multiplying it by the municipality's tax rate. The assessment generally is calculated by the municipality's assessor when a house is built, and normally doesn't change unless an addition is made to the house, or a communitywide reassessment is done.

In an assessment challenge, a homeowner must prove that his or her home's assessed value is higher than its market value. In the first step, a homeowner files a challenge with the board of assessment review in the municipality or with the tax commission in New York City.

If the board or commission grants an assessment reduction that is satisfactory to the homeowner, the process stops. However, if no reduction is granted or the homeowners are unhappy with the amount of the reduction, they can pursue the matter in a small claims assessment review, in which an independent hearing officer appointed by a state agency hears testimony from the assessor and the homeowner. (This option isn't available to co-op owners and those who live in condominium buildings with four or more floors; they must go to State Supreme Court.)

In some cases, homeowners can have their assessments lowered without filing formal challenges:

- Suffolk residents can visit the local assessor anytime and question the assessment on their home. If the assessor believes there is a valid discrepancy between



Newsday / Thomas R. Koenig
Attorney Linda Held, who specializes in tax challenges, advises a client in her Oyster Bay office.

assessed and market value, a field person is assigned to investigate, said Arthur Malaussena, assessor for the Town of Brookhaven. If the investigation confirms the discrepancy, the assessment is changed.

- Nassau and Suffolk homeowners can check their property record cards at the assessor's office at any time to see if the description of their house is correct. If too many bathrooms are listed, for example, the assessment may be too high. If the discrepancy is verified, homeowners are entitled to up to three years reimbursement on tax overcharges, said Linda Held, an Oyster Bay lawyer who handles tax challenges.

- In New York City, residential owners can file an informal application each year with the finance department to have their assessment reviewed. Next year's

Lowering your property taxes by challenging the assessment on your house doesn't require genius — or a lawyer — just a lot of preparation

filing period is Jan. 15 through March 1 for owners of one- two- and three-family houses and unit owners in condo buildings with three or fewer floors. For co-op owners and condominium residents in taller buildings, the period is Jan. 15 through Feb. 12.

Homeowners who disagree with the assessor's conclusion at an informal meeting should challenge their assessment during the formal grievance period. Homeowners can undertake the challenge alone, or they can hire a representative, such as a lawyer who specializes in tax challenges.

However, before formally — or even informally — challenging an assessment, a homeowner should determine both the property's market value and its value as determined by the assessor. "To win a challenge, you need credible proof" that there is a difference, said Karen Strom Owens, a tax-challenge lawyer with the Garden City firm Siegel Fenchel & Peddy.

To calculate what the municipality is valuing the property at, call the assessor's office and ask for both the assessed value of your home and the residential assessment ratio. This ratio is set each April for every municipality by the State Board of Equalization and Assessment. The ratio is based on the sales of residential property in a municipality and is designed to reflect the average relationship of assessed value of residential property to market value in that municipality, said Joseph Hesch, board spokesman.

Homeowners can use the residential assessment ratio for their community and the assessed value of their home to calculate indicated market value as determined by the assessor. (See related chart for a sample calculation, and ratios for area municipalities.)

Another ratio, the equalization rate, is sometimes used by hearing officers in a small claims assessment review to determine market value. This ratio includes

Doing Your Homework Makes the Difference

WHAT YOU don't know can hurt you when considering or preparing an assessment challenge.

Misconceptions about the process sometimes result in challenges not being made by homeowners who have strong cases or errors that make grievances unsuccessful, experts say. Some of the more common misconceptions:

Suffolk's grievance period is in July.

It had been until this year. Now it's identical to Nassau's period: May 1 through May 19.

You are contending that your property tax should be reduced.

While that is your goal, what you are actually trying to prove in a grievance is that your property is overvalued by the municipality, said Aileen Ronayne, assessor for the Town of Babylon. The assessor is responsible only for determining value, she said, while the tax rate is set by other agencies.

If your taxes are high, your house is over-assessed.

"Just because you pay a lot in taxes doesn't mean you are overassessed," said Karen Owens, an attorney with the Garden City law firm Siegel

Playing the Percentages

You can find out what your community thinks your house is worth by using one of two statistical measures that are updated yearly by the state. These measures are designed to establish the average relationship of assessed value of real estate to market value in each community. They are used in a variety of calculations, including distribution of state aid.

- The residential assessment ratio is based on all sales of residential property in a community in the preceding year.
- The equalization rate measures average value of all commercial and residential real estate, based on appraisals done in a random sampling.

Most experts believe the residential assessment ratio is the better indicator of current market value. Here's an example of how it works:

If you have a house in Nassau County with an assessed value of \$5,000, take the Nassau assessment ratio of 3.28, move the decimal point two numbers to the left, and divide the \$5,000 by .0328. Thus, the estimated value of the house is \$152,439. An owner who thinks the house is worth less than that may have grounds for an assessment challenge that could reduce property taxes on that house.



Here are the latest residential assessment ratios and equalization rates. Some of the equalization rates are tentative and could change until August. Some of the residential assessment ratios may also change after May 1.

	Residential Assessment Ratio	Equalization Rate
New York City	12.01	*21.57
Nassau County	3.28	*4.25
Suffolk Towns		
Huntington	1.94	*1.69
Babylon	2.44	*2.26
Smithtown	3.13	*2.61
Islip	27.50	24.95
Brookhaven	2.07	2.25
Riverhead	30.12	*28.14
Southampton	No rates because town recently completed reassessment	
Southold	3.60	*2.35
Shelter Island	4.12	*3.10
East Hampton	3.34	*2.14

SOURCE: State Board of Equalization and Assessment

Newsday Graphic / Fredrick Bush Illustration / Bernie Cootner



Newsday / Dick Kraus

Gregory Hild, Smithtown's assessor, says more people are fighting their assessments.

worth a certain amount because similar homes in the area sold for that price. Hild recommended that a homeowner use no more than five comps.

Residents of incorporated villages in Nassau and Suffolk that have their own assessments may need to file a separate challenge with the village, although some villages such as Muttontown use the county assessment and don't require an additional grievance. While the process is the same as a county or town challenge, the grievance period may be different. Homeowners should check with the village.

The final decision on an assessment reduction cannot be appealed, Owens said. However, another challenge can be filed the following year.

Here are the two phases of an assessment challenge, and tips from experts for achieving success.

First Phase

Homeowners must file an application with the county assessor's office in Nassau, the town assessor in Suffolk, or the property division of the department of finance in your borough in New York City. Applications are available at those offices. There is no filing fee, although Nassau is considering a \$25 charge.

Challenges can also be filed by persons who have a contract to purchase a home but haven't closed. Nassau has a county board of assessment review, while each Suffolk town has its own board. No one from the assessor's office can serve on the board.

Some tips:

Start the process as early as possible.

The more data you have to support your case, the better your chances are.

Learn the terms.

"The jargon used in an assessment challenge is unique," said Walter Maclyn Conlon, a partner in the Hauppauge law firm Mars, Sloane & Conlon. A booklet published by the State Board of Equalization and Assessment, "How To File a Complaint On Your Assessment," explains the process and contains a glossary of terms. It's available free at assessors' offices.

Fill out the form correctly.

Homeowners must select one of four reasons for their challenge: (A) Unequal assessment, (B) Excessive assessment, (C) Unlawful assessment, (D) Misclassification. Reasons C and D seldom pertain to homeowners. Homeowners should check A, which means you believe your property is assessed at a higher percentage of value than similar properties in your area, Held said. She said homeowners sometimes incorrectly check B, which actually means that you believe the assessed value of the property is greater than its market value. That is rarely the case in the metropolitan area. On Long Island, the typical assessment might be \$5,000; the typical home price is many times that. If you check the wrong box, you have no chance of winning your challenge.

The petition asks what the assessment is and what you believe it should be reduced to. Held recommended that a homeowner ask for more than the estimated overcharge, because the board can't grant more of a reduction than you ask for, even if you are entitled to it.

Make your case in person.

Although challenges can be done by mail, some lawyers and Abe Seldin, chairman of the Nassau County

Fenichel & Peddy.

A challenge could result in your taxes being increased, rather than reduced.

Under state law, neither a board of assessment review nor the hearing officer in the second phase of a challenge can increase the assessment, said Paul Michael Henry, president of Tax Reduction Services Inc. in Greenport.

However, if evidence is introduced that the assessor didn't know about — for instance, your house has two bathrooms and the assessor's records indicate only one — the assessment may be increased the following year, said Bryan J. Monaghan, assessor for the Town of Huntington.

Comparable houses in the area are assessed the same as your house, so the assessment must be correct.

In several cases, Henry has represented a group of owners with similar homes and assessments who won reductions because all the houses were overassessed. The key is to prove that your home is valued higher by the assessor than comparable houses in the area that recently were sold.

If the board of assessment review doesn't reduce the assessment, the chances of winning a second-phase challenge are poor.

Most reductions are obtained in the second phase, the small claims assessment review, said Linda Held, an Oyster Bay attorney. Catalano

both residential and commercial property.

Once you have calculated the assessor's indicated value for your home, accumulate evidence that the home's market value is lower. Recent buyers have the strongest evidence: the price they paid for the home.

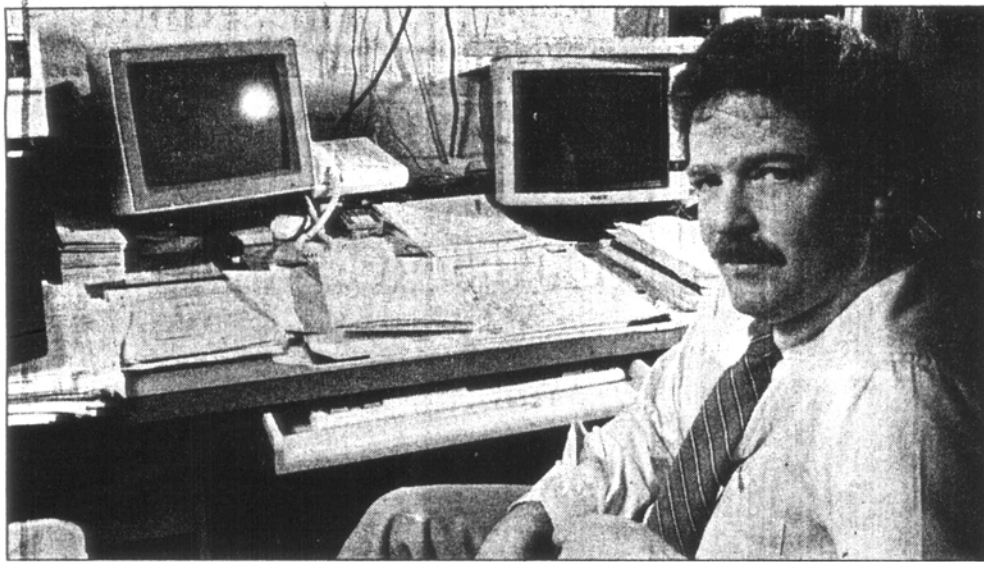
For persons who have owned their homes longer than one year, "an appraisal is the definitive value," said Paul Michael Henry, president of Tax Reduction Services Inc. of Greenport, which represents homeowners in challenges. An appraisal costs about \$250. However, if you recently refinanced or took out a home equity loan or second mortgage, an appraisal was probably done. Ask the lender to provide a copy.

Another strategy is to ask a real estate broker what the house is worth. However, Bryan J. Monaghan, assessor for the Town of Huntington, said an appraisal is stronger evidence than a broker's opinion.

To bolster your assertion of market value, you should compile what real estate people call comps — descriptions and prices of homes comparable to yours that were recently sold in the area. You can get comps from several sources:

- Home sales recorded in newspaper real estate sections.
- Your appraisal (the appraiser used comps to determine your home's value).
- Local real estate brokers.
- The county clerk's office, which records all home sales in the county.

The comps should be homes similar to your own, said Hild, the Smithtown assessor. Don't compare your ranch to a colonial. You want to show that your home is



Newsday / John H. Cornell Jr.

Paul Henry, who represents homeowners who challenge the assessment on their homes.

STEP by STEP

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Board of Assessors, say it's a good idea to testify in person because you can emphasize the strong points of your case and better explain your evidence.

In Suffolk, homeowners can present evidence orally to the board of assessment review on May 19 (known as grievance day). No appointment is necessary. Check with the assessor's office for time and location.

To present evidence orally in Nassau, residents must check a box on the challenge application. Appointments are made from May 20 through the end of July, said Tom Preston, spokesman for the Nassau County Assessor's Office. However, because of the increased number of protests, some people don't receive appointments, and rulings on their challenges are based solely on the written application.

New York City homeowners who challenge their assessments are mailed a notice with a hearing date and location, said Glenn Borin, counsel to the New York City Tax Commission. Owners who want to challenge in person can confirm the date by sending the card back or asking for the date to be rescheduled for the summer, Borin said.

Give as much evidence as possible.

"You can't just throw papers in the air and cry, 'My assessment is too much,'" Conlon said. "You have to say my assessment is too much because..." Include the square footage of each comp home, the size of the lot, type of construction (wood, frame, brick, etc.), and amenities other homes have that yours doesn't. Also mention things that diminish your home's value, such as a location on a busy street.

Include photos.

Photos of your home and the comps should show details that help illustrate your argument.

Second Phase

It takes about six weeks to hear from the board of assessment review. A homeowner who isn't satisfied with the board's decision has 30 days to file an application for a small claims assessment review. Copies of the application must be sent to either seven or eight government agencies, depending on where you live. Check with the assessor's office for details. There is a \$25 fee, which is reimbursed if you win at least half the reduction being sought.

You will be given a date on which you (or your representative) and the assessor will testify before a hearing officer appointed by the state Office of Court Administration — usually a real estate broker or lawyer. The officer encourages the homeowner and assessor to compromise on the amount of reduction. If the two can't agree, the officer will make a decision later.

Some tips:

Use the assessment ratio that favors you.

The hearing officer can use either the residential assessment ratio or the equalization rate to determine a home's value, Henry said. Homeowners should argue that the ratio most favorable to them be used. Monaghan said the residential assessment ratio is currently the most favorable to homeowners, because it gives a better indication of a home's value.

Give as much data as possible.

As in the first phase, support your argument with comps, photos and other information.

Joe Catalano is a free-lance writer.

There's Free Help, Expensive Help And Self-Help

AS ASSESSMENT challenges have mushroomed on Long Island, so has a cottage industry dedicated to helping homeowners win their cases.

Lawyers who specialize in tax challenges, called certiorari attorneys, have been around for years, and their numbers are growing. Recently there has also been surge in the ranks of nonlawyers who represent homeowners in grievances. One is Paul Michael Henry, president of Tax Reduction Services Inc. of Greenport, who started the business after challenging his own assessment. "Most people don't have the time or experience to do it themselves," Henry said.

Most persons who work on tax challenges for a living are paid only if the grievance is successful. For this reason, most are selective about the cases they take. Henry estimated that he turns down half the people who contact him.

The most common fee is 50 percent of the assessment reduction in the first year, although some charge as much as 100 percent.

Experts say consumers should shop around for a representative, partly because of the difference in fees, and partly because not all representatives are qualified.

"There's a lot of people trying to make a fast buck and I don't like it," said Bryan J. Monaghan, assessor for the Town of Huntington. He said the grievance process was simplified so that homeowners wouldn't have to hire lawyers. A few years ago, the small claims assessment review was created so that challengers who failed to get a reduction from the board of assessment review wouldn't have to go to State Supreme Court.

"There's no reason a person of average intelligence who pays attention to what he or she is doing can't file a grievance," conceded Walter Maclyn Conlon, a certiorari attorney and partner in the Hauppauge law firm Mars, Sloane & Conlon. "Unfortunately, if homeowners screw it up, they're out of it" until the following year, he said.

Should a homeowner hire a representative?

"I try to stress to a homeowner, this is a process that can be done by yourself with a little bit of effort," said Gregory Hild, assessor for the Town of Smithtown.

The process can be intimidating for homeowners, said Linda Held, an Oyster Bay certiorari attorney. They must take an oath before presenting evidence to the board of assessment review, and a stenographer takes notes, she said.

Henry, who handled 100 tax challenges last year, said someone who does that for a living learns things that can help win cases. He said that he has had to clarify sections of the law for hearing officers who weren't familiar with them. (Example: the officer is allowed to visually inspect a property before making a decision.) Sometimes, he said, assessors' data is inaccurate.

Henry said a homeowner can be tripped up in the small claims assessment review when assessors use terms a homeowner doesn't understand. However, Hild, the Smithtown assessor, said that by the time homeowners get to this phase, "they are pretty astute to the process."

Assessors say their staffs can answer homeowners' questions. Assessors' offices also have a free booklet published by the State Board of Equalization and Assessment that explains the challenge process and how to fill out the forms.

However, certiorari attorneys say some assessors' offices are not as helpful as others.

For Suffolk homeowners who want to challenge assessments on their own, Mark Lewis, a real estate broker since 1984, has produced a 45-minute video on the subject. He also is conducting several one-hour seminars. The cost for either is \$19.95, said Lewis, owner of All Island Real Estate of Manorville.

A cable TV show explaining the grievance process in Nassau County will feature Abe Seldin, chairman of the Board of Assessors. It will be broadcast Thursday at 5 p.m. on Cablevision Ch. 10 in Nassau, and again on April 23 at 5 p.m.

For those who would rather read about the grievance process, there are guides in local bookstores.

— Catalano