

<b>Matter of Malik v Tax Commn. of the City of New York</b>
2009 NY Slip Op 09230
Decided on December 8, 2009
Appellate Division, Second Department
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Decided on December 8, 2009

**SUPREME COURT OF THE STATE OF NEW YORK**  
**APPELLATE DIVISION : SECOND JUDICIAL DEPARTMENT**  
WILLIAM F. MASTRO, J.P.  
ANITA R. FLORIO  
RUTH C. BALKIN  
JOHN M. LEVENTHAL, JJ.

2008-11384

(Index Nos. 103953/97, 105116/98, 102767/99, 104274/00, 104307/01)

**[\*1]In the Matter of S. Lal Malik, d/b/a Malika Palace Indian Restaurant and Bar,  
respondent,**

**v**

**Tax Commission of the City of New York, et al., appellants.**

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Rita D. Dumain, Neil Schaier, and Gary L. Bristol of counsel), for appellants.  
Sherman & Gordon, P.C., New York, N.Y. (Isaac Sherman and Joanne Sherman Ingerman of counsel),  
for respondent.

DECISION & ORDER

In five related proceedings pursuant to Real Property Tax Law article 7 to review real property tax assessments for tax years 1997/1998 through 2001/2002, the Tax Commission of the City of New York and the Commissioner of Finance of the City of New York appeal from an order of the Supreme Court, Queens County (Golia, J.), entered October 31, 2008, which denied their motion to dismiss the petitions pursuant to RPTL 714 and, in effect, pursuant to CPLR 3211(a)(3) on the ground that the petitioner is not an aggrieved person within the meaning of RPTL 704.

ORDERED that the order is affirmed, with costs.

The petitioner, a nonfractional lessee of certain property in Queens, is an aggrieved person within the meaning of RPTL 704(1). Since the lease at bar clearly required the petitioner pay all of the real estate taxes levied against the subject property, any tax assessment of the property directly affects the petitioner's pecuniary interest, and the total assessments were subject to challenge (*see Matter of Waldbaum, Inc. v Finance Adm'r of City of N. Y.*, 74 NY2d 128, 134; *Matter of Big V Supermarkets, store #217 v Assessor of Town of E. Greenbush*, 114 AD2d 726; *see also Matter of Mack v Assessor of Town of Ramapo*, 72 AD2d 604, 605; *cf. Matter of EFCO Prods. v Cullen*, 161 AD2d 44, 46; *Matter of Ames Dept. Stores v Assessor of Town of Concord*, 102 AD2d 9, 11). Therefore, the Supreme Court properly denied the appellants' motion to dismiss the petitions pursuant to RPTL 714 and, in effect, pursuant to CPLR 3211(a)(3) on the ground that petitioner is not an aggrieved person within the meaning of RPTL 704.

The appellants' remaining contentions are without merit.

MASTRO, J.P., FLORIO, BALKIN and LEVENTHAL, JJ., concur.

ENTER:

James Edward Pelzer

Clerk of the Court

[Return to Decision List](#)