

YatesOuchTax
Steering Committee
PO Box 196
Canandaigua, NY 14424

Yates County OUCH Tax....The Occupancy Tax That Doesn't Make CENTS!
Supported By Responsible Citizens of Yates County

February 15, 2008

To: Mr. H. Taylor Fitch
Chairman Finance Committee and Vice Chairman of Yates County Legislator
Yates County Legislature
Yates County Office Building
417 Liberty St.
Penn Yan, NY 14527

This is a follow-up letter to the Yates County Finance Committee meeting held on Tuesday, Feb 5th, at which Richard Testa presented, on behalf of the Steering Committee of the YatesOuchTax alliance, and its supporters, a Position Statement on behalf of Canandaigua Lake, Keuka Lake and Seneca Lake property owners opposing the recently-enacted Yates County Occupancy Tax. We appreciate your interest, patience and courtesy in letting Mr. Testa fully present our views and to leave you all with copies of our Position Statement for your review and further consideration. We have reconfirmed with group members that there is no change in our Position following the meeting, although over time we surely will have additional points to add. We reserve the right to supplement with additional concerns as we become aware, especially as new supporters are added to our Position Statement and contribute new information. Once you have had the opportunity to read and to study our Position Statement in more detail, we would be willing to discuss further with you our issues, and specific proposals.

In the meantime, Mr. Testa has reported the results of that meeting and while we are pleased that you were already thinking of re-examining the Occupancy Tax after one year, we must point out that too much economic damage will have been done to Property Owners of rental properties by that time. **It is NOT simply a matter of obtaining an Occupancy Tax refund, but rather recovering the damage to our rental incomes as well.** Already, we have members who have lost summer 2008 rentals due to the Occupancy Tax; i.e. prospects have specifically stated they will go to Ontario County where there is no Occupancy Tax. **We are and will be urging cottage owners to keep careful records of inquiries and what prospects say about how the Occupancy Tax influences their decision to not rent in Yates County.** This will ultimately damage tourism in Yates County, especially in the lost spending from prospective renters who go elsewhere, and from adverse publicity as well.

If it should be shown that the County did not properly enact this legislation, it leaves itself (and thus all taxpayers) open for damage suits, not just in the amount of the Occupancy Tax, but in the amount of lost rentals, and the expenses of pursuing such claims or class action. If, in any way, the Occupancy Tax shall be shown to be unconstitutional, or discriminatory or otherwise illegal, or to not have been properly enacted, or to be inconsistent with the specifics of the NYS approval, or that there was any conflict of interest from individual legislators who voted for it, or any of many other possibilities too varied to enumerate here, any of which might cause the ultimate repeal or adjustment of that Occupancy Tax with respect to cottages, **it could create unnecessary risk to the finances of Yates County and even possibly to individual legislators from cottage owners seeking to recover their damages.** The best way for Yates County to mitigate the potential of such damages is to postpone application of the Occupancy Tax to cottages until all matters can be sorted out, and all input fairly heard.

The County cannot say it has not been put on notice about these concerns. We are sure that you will agree that even one lost rental week per rental unit, will exceed the entire amount of Occupancy Tax which the County had intended to collect from that cottage owner, multiplied over all such cottage owners' losses. Obviously, *more* than one week of lost rental would make the claims even more substantial. Please keep in mind that we are now right in the middle of the rental season (for summer 2008) and the possibility of losses to cottage owners increases by every day the Occupancy Tax is in place. **We call on the Yates County Legislature to mitigate our losses by immediately delaying application of the Occupancy Tax to cottage rentals.** Time truly is of the essence.

Delay would in no way affect the work which the Legislature needs to do over the next few months, nor its results, and would also allow for a reasonable and studied approach while mitigating future potential loss. Obviously the fact that so many taxpayers didn't even know this matter was pending until they received notice in their mail boxes is a strong indication that the concerns of cottage renters have not been appropriately taken into account, and we likely have not even yet identified all their concerns and issues. Therefore, in the interest of both the cottage renters as well as the risk to the future finances of Yates County, **we specifically request an immediate minimum one-year delay in applying the Occupancy Tax to cottages until all the issues can be studied more thoroughly, with more meaningful dialogue.** Our impression from Mr. Testa's report of the meeting is that it would take the Legislature until approximately May or up to one year to do a review of the matters we raised. Too much economic damage will be done by that time.

Without such immediate delay, rentals will be lost and the possibility of lost rental claims will mount, which of course is in no one's interest. Moreover, we believe a one year hiatus, at a minimum, will also help the County on a phased-in basis were an Occupancy Tax to be later enacted over our protestations, since the inexperienced cottage owners are likely to take the most time of Yates County staff to answer the numerous questions anticipated from their lack of knowledge of the process in this area.

So, in summary, we ask for an immediate cessation for a year of any implementation of the Occupancy Tax against cottage owners, and we reiterate and restate every single point which was in our Position Statement.

Sincerely,

The YatesOUCHtax Steering Committee,

Dr. Jerid Fisher

Diane Harris

Rich Festa

Cc: *Mr. Robert N. Multer, Chairman, Yates County Legislators
* Ms. Connie C. Hayes, Clerk
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Asterisk * denotes members of Yates County Occupancy Tax Committee of Yates County per Ms. Connie Hayes.