



Greenburgh Central School District

Tax Certiorari Reserve

2023M-163 | August 2024

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Report Highlights

Greenburgh Central School District

Audit Objective

Determine whether Greenburgh Central School District (District) officials properly established the District's tax certiorari reserve fund and maintained it at a reasonable level.

Key Findings

The Board of Education (Board) properly established the tax certiorari reserve fund and maintained it at a reasonable level. However, District officials did not develop procedures to ensure:

- Tax certiorari judgments were adequately tracked.
- Reliable records were maintained, such as a complete and accurate listing of all outstanding tax certiorari cases, which was also noted in our prior audit (*Payroll and Reserve Funds - 2016M-242*) that we released publicly in September 2016.
- The annual report of the District's tax certiorari reserve funds provided to the Board contained all information required by District policy.

Without adequate and reliable records and reporting, the Board and District officials have no assurance that the amount in the tax certiorari reserve fund is reasonable or necessary.

Key Recommendations

- Develop procedures to ensure adequate and reliable records to support the amounts in the tax certiorari reserve fund are maintained and the annual report of all reserve funds provided to the Board contains all information required by District policy.
- The Board should use the information in the annual report prepared by the Treasurer to determine how to maintain and manage the District's tax certiorari reserve fund balance.

District officials generally agreed with our findings and indicated they plan to initiate corrective action.

Audit Period

July 1, 2020 – June 30, 2022

Background

The District is located in the Town of Greenburgh, Westchester County. The District is governed by the Board, which comprises seven elected members. The Board is responsible for the general management and control of the District's financial and educational affairs, including establishing any reserve funds.

The Superintendent of Schools is the District's chief executive officer and is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction.

The District contracted with an attorney to monitor the District's tax certiorari liabilities. The District Treasurer (Treasurer) is also responsible for preparing an annual report on the District's tax certiorari reserve fund.

Quick Facts

Tax Certiorari - As of June 30, 2022

Reserve Fund Balance	\$12.4 million
Outstanding Claims	587
Maximum Outstanding Liability	\$66.1 million

Fiscal Years 2018-19 – 2021-22

Average Tax Certiorari Case Settlement Percentage	16%
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Tax Certiorari Reserve Fund

A tax certiorari claim is the legal process by which a property owner can challenge the assessed value of their property to reduce the real estate taxes on the property. A tax certiorari settlement occurs when both parties agree to resolve their differences as to the property assessment. In instances when both parties cannot agree, a court may issue a judgment to settle a claim made by the property owner. Tax certiorari reserve funds are created to accumulate funds necessary to pay judgments and claims in tax certiorari proceedings.

Why Should the Board Properly Establish and Effectively Manage a Tax Certiorari Reserve Fund?

A school district board should properly establish and effectively manage a tax certiorari reserve fund to provide a mechanism for legally saving money to finance all or part of a school district's tax certiorari liability. In addition, a district's tax certiorari reserve fund can provide officials with a budgetary option that can help mitigate the need to raise taxes to pay judgments and claims for tax certiorari settlements.

New York State Education Law authorizes a school district board to establish a tax certiorari reserve fund to pay for tax certiorari judgments and claims resulting from tax certiorari proceedings. The board should adopt a written policy for its various reserve funds, including the purposes, the optimal funding levels and the conditions under which the various reserves will be used and replenished. The board should also periodically review this policy and periodically analyze the reasonableness of the balances in these reserves.

The District's Tax Certiorari Reserve Was Properly Established and the Level Maintained Appears Reasonable

The District's tax certiorari reserve was properly established via a Board resolution passed on September 14, 2004. More recently, however, the Board adopted a reserve fund policy (which includes the tax certiorari reserve) on September 19, 2017; the Board has not updated this policy since its adoption. While this policy states reserve funds will be properly established and maintained to promote the goals of creating an open, transparent and accountable use of public funds, it does not address the purpose of the various reserve funds (including the tax certiorari reserve), the optimal funding levels for these reserves, and the conditions under which the reserves will be used and replenished. This policy further allows District officials to engage independent experts and professionals including, but not limited to, auditors, accountants, and other financial and legal counsel to monitor all reserve fund activity and prepare reports that the Board may require. Furthermore, the Treasurer is also required by this policy to prepare and submit an annual report of all reserve funds to the Board. This report should include the following information:

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- Type and description,
 - Date the reserve fund was established,
 - Amount of each sum paid into the fund,
 - Interest earned,
 - Capital gains or losses,
 - Total amount and date of each withdrawal from the reserve fund,
 - Total assets of the reserve fund showing cash balance and a schedule of investments,
 - An analysis of the projected needs for the reserve fund in the upcoming fiscal year, and
 - A recommendation regarding funding those projected needs for each reserve fund.

The Board should use the information in the annual report to make decisions with respect to maintaining and managing the District's tax certiorari reserve fund balance, while also being mindful of its role and responsibility as a fiduciary of public funds. In addition, the total of the funds held in this reserve fund should not exceed the amount which might reasonably be deemed necessary to meet anticipated judgments and claims arising out of such tax certiorari proceedings.

Our review of the reasonableness of the District's tax certiorari reserve fund balance required obtaining outstanding cases from the Westchester County Clerk's (WCC) database, as District officials did not develop procedures to ensure tax certiorari judgments were adequately tracked or reliable records were maintained (such as a complete and accurate listing of all outstanding tax certiorari cases) to determine the actual amount of funds needed for this reserve fund. This issue was also cited in our previous audit (*Payroll and Reserve Funds -2016M-242*) that we released publicly in September 2016. Further, upon our inquiry regarding tax certiorari documentation, the Treasurer and Assistant Superintendent for Business stated that they relied on tax certiorari potential claims exposure information provided to them by the District's attorney.

We compared the outstanding tax certiorari cases (cases) as recorded in the WCC database to the outstanding cases listed on the outstanding cases listing (list) provided to us by the Treasurer (obtained from the District's attorney). This comparison resulted in a significant discrepancy between the total number of outstanding cases reflected on these two sources. The list contained 122 outstanding cases, while the WCC database showed 587 outstanding cases. Additionally, there were discrepancies with 55 (45 percent) of the 122 outstanding cases. We also determined 54 case index numbers did not match the appropriate corresponding petitioner's name and/or Section/Block/Lot (SBL) of the relevant

property, and we could not find one case when we searched for the case index number in the database. Subsequent to the end of our audit period and our fieldwork, the Treasurer provided us with the District's updated lists of its outstanding tax certiorari cases for each year from 2010 through 2022 (obtained from the District's attorney); however, we did not review or audit these lists as part of our audit.

As of June 30, 2022, the District had approximately \$66.1 million in outstanding tax certiorari claims. Based on payments made for settled tax certiorari cases over the last four completed fiscal years (2018-19 through 2021-22), the District paid an average of 16 percent of the refund requested by property owners. In addition, based on the information received from the District's attorney, the District utilizes a 25 percent estimate on the remaining outstanding claims. However, given our Office's prior experience with tax certiorari reserve funds in Westchester County school districts, 16 percent is a relatively low settlement percentage. As a result, we estimated what the District's tax certiorari liability would be if a 20 percent settlement estimate was used. Using this estimate, the amount in the tax certiorari reserve seems adequate, as the balance as of June 30, 2022 is approximately 94 percent of the estimated potential liability of outstanding cases (Figure 1).

Figure 1: Tax Certiorari Liabilities

Settlement Year	# of Cases Settled	Requested Settlement Amount	Actual Settlement Amounts
2018-19	3	\$101,105	\$13,130
2019-20	16	\$2,887,510	\$391,013
2020-21	51	\$7,180,233	\$674,027
2021-22	182	\$15,594,795	\$2,069,293
As of June 30, 2022			
Total Outstanding Tax Certiorari Claims			\$66,105,538
Estimated Tax Certiorari Liability Utilizing 20 Percent Settlement			\$13,221,108
Actual Tax Certiorari Reserve Fund Balance			\$12,427,590
Reserve Fund Balance - Percent of Potential Settlement Estimate			94%

In addition, although the Treasurer provided the Board with an annual report of the District's tax certiorari reserve fund, the report did not contain all the information required by the District's policy. For example, the report did not include the date the reserve fund was established, the amount paid into the fund or the amount and date of each withdrawal from the fund. She stated that she prepared the report the same way the previous Treasurers did and the Board

did not request the additional information from her. Furthermore, the Assistant Superintendent for Business and the Treasurer told us that the Business Office did not have a review process for the tax certiorari reserve fund due to its complexity, so the District hired a professional attorney to perform the review process.

Without adequate and reliable records and reporting, the Board and District officials have no assurance that the amount in the tax certiorari reserve fund is reasonable or necessary.

What Do We Recommend?

The Board should:

1. Update its current reserve fund policy to ensure it addresses the purpose for each reserve, optimal funding levels and conditions under which the reserves will be used.
2. Use the information in the annual report prepared by the Treasurer to determine how to maintain and manage the District's tax certiorari reserve fund balance.

The Board and District officials should:

3. Develop procedures to ensure adequate and reliable records to support the amounts in the tax certiorari reserve fund are maintained.

The Treasurer should:

4. Ensure the annual report of the District's tax certiorari reserve fund to the Board contains all information required by District policy.

Appendix A: Response From District Officials



**Greenburgh Central
School District**
Our Children. Our Focus. Our Future.



Dr. Linda J. Iverson

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July 8, 2024

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To Whom It May Concern:

The Greenburgh Central School District is in receipt of the Comptroller's Draft Report for the audit on the Tax Certiorari Reserve. The District has internal controls in place to protect and monitor the reserves of the District.

The District will begin to review the recommendations and make changes where necessary during the 2024-2025 school year to further strengthen our already established internal controls.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Dr. Linda J. Iverson
Superintendent of Schools

Central Office | 475 West Hartsdale Avenue, Hartsdale, NY 10530 | www.greenburghcsd.org

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, and the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed the Board, District officials and the Treasurer who were involved in managing the District's tax certiorari reserve fund to gain an understanding of the processes and procedures in place.
- We reviewed Board meeting minutes and District policies and procedures to identify and examine any information that related to the Board's oversight and District officials' responsibilities for establishing and maintaining the tax certiorari reserve fund.
- We reviewed the Board resolution establishing the tax certiorari reserve to determine whether the reserve was properly established.
- We reviewed the District's external independent auditor's report for the fiscal year ending June 30, 2022 to determine the District's tax certiorari reserve fund balance at this specific point in time.
- We analyzed the District's settled tax certiorari claims listing for the audit period to calculate the average tax certiorari case settlement percentage.
- We reviewed the WCC database to identify all of the District's outstanding tax certiorari cases that were filed from July 1, 2014 through June 30, 2022, and were still outstanding as of June 30, 2022. We then calculated the maximum outstanding liability and the amount reasonably expected to be paid based on an average settlement amount of 20 percent and the District's expected settlement percentage of 25 percent. We selected a 20 percent average settlement based on the average settlement rate calculated for the District and our collective experience auditing schools in Westchester County. We compared the reserve fund balance to the amounts reasonably expected to be paid to determine whether the reserve fund balance was reasonable and did not exceed the amount reasonably expected to be paid.
- We listed the index number and other related information such as petitioner's name, SBL of the property, assessed value, petitioner's proposed value and reduction sought for each case on the outstanding tax certiorari case listing provided by the Treasurer. We then compared this information to the information in the WCC database to determine whether the District's records were accurate. We recorded all exceptions and calculated the percentage of the exceptions.

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- We compared the number of cases included on the outstanding tax certiorari case listing provided by the Treasurer to the number of outstanding cases identified from the WCC database to determine whether the District's list was complete.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The CAP should be posted on the District's website for public review.

Appendix C: Resources and Services

Regional Office Directory

www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.ny.gov/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.ny.gov/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.ny.gov/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.ny.gov/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.ny.gov/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.ny.gov/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.ny.gov/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.ny.gov/local-government/academy

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