§ 720. Action by court upon the pleadings. 1. (a) If the court determines from the pleadings for any of the reasons alleged in the petition that the assessment being reviewed is unlawful it shall order the assessment stricken from the roll or where appropriate entered on the exempt portion of the roll.

(b) If the court determines that the assessment being reviewed is excessive or unequal, it shall order a revised assessment of the real property of the petitioner or the correction of the assessment upon the roll, in whole or in part, in such manner as shall be in accordance with law or as shall make it conform to other assessments upon the same roll and secure equality of assessment, provided, however, that except in cities with a population of one million or more an assessment may not be ordered reduced to an amount less than that requested by the petitioner in a petition or any amended petition verified pursuant to section seven hundred six of this title. If the real property is partially exempt from taxation, and the order does not specify how much of the total assessed value, as determined by the court, is exempt from taxation, the exemption shall be reduced so as to preserve the ratio of taxable assessed value to the total assessed value that existed on the final assessment roll.

(c) If the court determines that the real property is misclassified, it shall order the correction of the class designation upon the roll.

2. If it appears to the court that testimony is necessary for the proper disposition of the matter, it shall take evidence or appoint a referee to take such evidence as it may direct. The referee shall report to the court his findings of fact and conclusions of law and the evidence upon which it is based, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The report of the referee and the decision or final order of the court finding the value of the property and the proper assessment thereof shall contain the essential facts found upon which the ultimate finding of facts is made.

3. (a) For the purposes of this subdivision:

(1) "Major type of property" in special assessing units for assessments on rolls completed before January first, nineteen hundred

eighty-two and in other than special assessing units means each of the following:

(i) residential: all one, two and three family residential real property including such dwellings used in part for non-residential purposes but which are used primarily for residential purposes, except such property held in cooperative or condominium forms of ownership provided, however, that in any approved assessing unit which has adopted the provisions of section nineteen hundred three of this chapter the residential type shall be the homestead class as defined in this chapter;

(ii) farm, forest and vacant: all real property used primarily for agricultural or forestry purposes and all real property which contains no significant improvement;

(iii) public utility: all real property primarily used for the provision to the public of communications or transportation services, electric power, water or gas;

(iv) all other: all real property not included in any other major type.

(2) "Major type of property" in special assessing units, for assessments on rolls completed after December thirty-first, nineteen hundred eighty-one, shall mean classes one, two, three and four as defined in subdivision one of section eighteen hundred two of this chapter.

(3) "Stratified random sample" means the sorting of all taxable parcels except public utility property, on the assessment roll to be used for the selection of parcels, into a number of mutually exclusive categories each of which is sampled independently in such a manner that each parcel in each such category shall have an equal opportunity to be selected.

(b) Evidence on the issue of whether an assessment is unequal shall be limited to the following as hereinafter provided.

(1) By the selected parcels method as determined by stratified random sample.

The parties shall mutually agree on the methods of stratification, computation of ratio and selection of the parcels to be appraised, the number of such parcels and the number of witnesses to be heard with

respect to such issue. Such parcels shall be selected so as to constitute a stratified random sample of all locally assessed taxable parcels on the assessment roll containing the assessment under review or the latest assessment roll sampled by the board in establishing the state equalization rate for such roll; provided, however, for assessments on rolls completed after December thirty-first, nineteen hundred eighty-one, in special assessing units such parcels shall constitute a stratified random sample of all locally assessed taxable property in the major type of property in which the property under review is classified; provided further, however, for assessment rolls completed after December thirty-first, nineteen hundred eighty-one, in special assessing units public utility property shall be sampled as the parties agree, or if the parties fail to agree, as the court directs. In special assessing units for assessment rolls completed prior to January first, nineteen hundred eighty-two and in other than special assessing units public utility property shall be added to the parcels selected for the stratified random sample when such property is a significant portion of the total locally assessed taxable assessed value of the assessing unit; in such case, representative parcels shall be agreed upon by the parties or selected by the court if no such agreement is reached. In the event that proceedings for more than one year are consolidated for trial, evidence may be introduced to adjust the ratio derived from the selected parcels provided for in this subdivision so as to make such ratio applicable to the other assessment rolls included in such consolidation. For the purpose of this subdivision, stratification shall be based on major type of property and assessed value within each such major type; provided however, that for assessments on rolls completed after December thirty-first, nineteen hundred eighty-one, in special assessing units stratification shall be based on the assessed value of parcels within the major type of property in which the assessment under review is classified. Nothing in this subdivision shall prevent the parties from agreeing, with approval of the court, to any other method of stratification in place of or in addition to major type of property or assessed value of property. Stratification shall be made in accordance with the information contained on the assessment roll from which the parcels to be appraised are to be selected. The assessment under review shall be excluded from the stratification and the sample.

In addition to the selected parcels, additional parcels shall be selected in the same manner for use as substitutes for selected parcels for which the parties agree that an appraisal cannot be made. If the parties fail to agree on the feasibility of appraising a selected parcel or an appropriate substitute the court shall make such determinations.

In the event the parties fail to agree on such methods or selected parcels or on the number of witnesses, upon application of either party the court or referee shall select a qualified expert, who shall devise such methods and select the parcels to be appraised, or shall determine the number or witnesses, or both, as the case may be. Before any testimony is given by either party as to the value of such parcels, each party shall simultaneously file with the court or referee, on a date fixed by the court or referee, a written statement or tabulation of the appraised values placed upon such parcels by the witnesses of the respective parties, and each party shall serve on the other at the same time a copy of such statement or tabulation of values stated by his witnesses.

(2) By actual sales of real property within the assessing units that occurred during the year in which the assessment under review was made:

(3) By other methods.

The parties shall be limited in their proof on the trial of such issue to such parcels and witnesses, except that in any event, whether or not parcels are selected as hereinabove provided, evidence may be given by either party as to the following:

(a) in all assessing units other than special assessing units as defined in section eighteen hundred one of this chapter, the state equalization rate established for the roll containing the assessment under review;

(b) in all special assessing units as defined in section eighteen hundred one of this chapter, only for proceedings commenced with respect to assessment rolls completed prior to January first, nineteen hundred eighty-two, the latest applicable equalization rate established for the roll containing the assessment under review; or

(c) in all special assessing units as defined in section eighteen

hundred one of this chapter, only for proceedings commenced with respect to assessment rolls completed after December thirty-first, nineteen hundred eighty-one, the latest applicable class ratio established for the roll containing the assessment under review; or

(d) in all assessing units, the uniform percentage of value stated on the tax bill for the roll containing the assessment under review.

4. Notwithstanding the enactment of a local law as provided in subdivision three of section fourteen hundred two of this chapter, a village shall be deemed an assessing unit for purposes of this section.