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TEXAS - High tax bill? Blame the state's deeply flawed appraisal system

Property taxes are a red-hot topic this summer across Texas.

More than 20 related bills have been filed for the Legislature's special session. Efforts to legislate tighter limits on how local property taxes can increase without a public vote have sparked heated arguments.

But a fundamental problem — the appraisal system — has been largely ignored. In fact, our state's deeply flawed mass appraisal process is a major driver of the rapid increase in tax bills.

Fundamental Issue No. 1: The sheer volume of properties the appraisal districts must evaluate each year. For example, in Harris County there are about 5,500-plus parcels for each appraiser or analyst working for the appraisal district. That works out to about 22 parcels per day or almost three parcels per hour, year-round, for each appraiser or analyst working a five-day week. That is an impossible volume of work.

Is it any wonder that many appraisals wind up being wildly inaccurate?

Fundamental Issue No. 2: The appraisal system unfairly burdens the property owner with the cost of proving his or her case even when the appraisal district's assessed value is incomplete or inaccurate. And inaccurate appraisals are a direct result of Issue No. 1, because appraisal districts lump properties into categories, ratios and valuations that don't always make sense for a specific property.

So, if you don't like the valuation assigned to your property, you can protest it or even sue your appraisal district.

Essentially, you fund the appraisal district's budget through your taxes and pay again to prove it when they overvalue your property. Seems like a stacked deck, doesn't it?

Businesses and property managers are usually the only taxpayers who can afford the costs of arguing their valuation. This creates a perfect opening for the common talking point that homeowners are forced to carry the burden when businesses fight their appraisals. But it's the flawed process that forces businesses to fight for fairness and accuracy in the first place.

No property owner wants to go down the path of litigation. But litigation often resolves disputes quickly because it allows more time to evaluate the property and its specifics. The extremely rushed appraisal and protest process is simply too compressed to be of much use.

Fairness in the system would improve — and litigation would be reduced — with real transparency in the appraisal review boards and processes. It's time to hold appraisal boards accountable by making those positions elected, not appointed.

In addition, before we talk about rates, fixes, caps or anything else, we need to strengthen the requirements for serving on an appraisal review board. The boards are typically composed of retired Texans with little or no experience in real estate, cap rates, expense ratios and national debt/lending trends. That needs to change.

International Property Tax Institute

IPTI Xtracts- The items included in IPTI Xtracts have been extracted from published information. IPTI accepts no responsibility for the accuracy of the information or any opinions expressed in the articles.

Until reform happens, commercial and personal property owners in Texas need to use all the tools now available. Filing a protest is one tool. But the process is inherently tilted in the appraisal district's favor because of its far-too-cozy relationship with the review board.

When a protest doesn't produce a fair and accurate number, the final option is to take the appraisal district to court. That's a sure way to expose the deep flaws in the appraisal system and to put the appraisal districts on notice that taxpayers are ready to fight back.

TEXAS - Hiding a real problem behind a bogus property tax reform

I've been around the Texas Legislature for a long time, and I know a bad idea when I see one.

The Senate's proposal to limit cities and counties from raising the funds they need to pay police officers, firefighters and paramedics is a bad idea. Senate Bill 1, as this proposal is called in this special legislative session, would also threaten local funding for health care, parks and libraries.

This so-called "property taxes bill" was a bad idea during the regular legislative session, and it's still a bad idea.

SB 1 is part of a broader scheme of some state lawmakers to override or interfere in local community choices made by county judges, mayors, city councils and local voters. When I was in the Legislature, it was my goal to make decisions that would support the folks around my West Texas district. And what's right for one part of the state isn't always what's best for another community. My neighbors know what's best for our communities, and the state Legislature should not meddle in affairs best decided locally.

Interfering in local decision-making isn't just bad news for homeowners; it's also bad news for businesses. A recent study found that Texas is slipping in rankings of the best places for businesses. The leadership's bathroom crusade is a part of that, and so is our underinvestment in public education and the resulting high property taxes.

Here are the facts. The real way to reduce property taxes is for the state to invest more in public education, lowering schools' reliance on local property taxpayers. Over 54 percent of property taxes in Texas go to schools. When the state doesn't put enough into public school funding, school districts have to make up the difference in property taxes. In 2017, the state is only funding about 42 percent of public education through the Foundation School Program.

Boosted state investment in public education would mean school districts wouldn't have to raise taxes to cover inflation, maintain or reduce class sizes or attract and retain the best teachers.

House Speaker Joe Straus, Public Education Committee Chairman Dan Huberty and others are wisely talking about a true remodel of the state's school finance system.

Over 5.3 million Texas students will be getting ready to go back to public schools when this special session wraps up in mid-August. Because of cuts and underfunding to public schools over the last several legislative sessions, those students can expect more crowded classrooms. Principals and school districts can expect limited resources that have not kept pace with inflation. School teachers know that many of them will have to pay for some school supplies out of their own meager salaries.

We know that high property taxes can put a strain on Texans. But this Senate bill will not end fast-rising property tax bills, as House Ways and Means Committee Chairman Dennis Bonnen has pointed out.

Instead, this dangerous proposal would interfere with local decisions and hamstring the ability of Texas' cities and counties to address the changing needs of their residents.

Let's stop rehashing bad ideas at the Capitol and instead come together to make some meaningful progress on funding public education. If we're going to spend the middle of the summer in Austin, then we might as well do some good for Texas.

OHIO - Tax reforms have farmers breathing a sigh of relief

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When Gov. John Kasich signed the new state budget, many farmers breathed a sigh of relief.

The budget contained changes to the Current Agricultural Use Value (CAUV) formula, which was adopted in 1973 to reduce property taxes to help farmers afford their land so they did not feel pressure to sell to commercial developers by taxing farmland for its agriculture value instead of its fair market value.

State Rep. Brian Hill said lawmakers were smart to pass the CAUV formula more than 30 years ago to help secure an abundant food supply. However, the formula that was put in place to help farmers has been doing the opposite in the last decade.

Hill said the formula needed to be updated because as the valuations factored into the formula have fluctuated over the years, many farmers have seen their tax rates increase by more than 300 percent in the past decade in a period where farm incomes have decreased.

"It hasn't been pleasant," said Matt Bell, a sixth-generation farmer in Muskingum County whose taxes have gone up about 200 percent.

Agriculture is the number one industry in Ohio - and in Muskingum and Coshocton counties. According to the 2012 census from the US Department of Agriculture, both counties have about 170,000 acres of farmland and more than 1,000 farms.

The market value of crop and livestock sales are about \$58 million in Muskingum County and \$81 million in Coshocton County.

By updating the formula, Hill said it will help secure an abundant food supply by helping farmers to stay on their land.

The CAUV formula takes many factors into consideration, including soil productivity, crop yields, capitalization rate, and non-land production. The productivity of each soil type is determined in three-year cycles.

Bell, who is a Ohio Farm Bureau board member, described the increase of taxes as a perfect storm as commodity prices decreased and taxes increased.

"It couldn't continue the way it was going," Bell said. "Any time there's a 300 percent increase, I don't care what business you're in, that's hard to absorb."

Brent Porteus, a Coshocton County farmer and former president of the Ohio Farm Bureau, said his taxes have tripled and it started when crop prices were peaking about eight years ago.

Porteus said the CAUV formula had done its job, but the problem occurred with the capitalization rate in the formula not creating an accurate representation of what farm land is worth and causing big swings in a farmer's tax bill.

The new bill aims to offer property tax relief for farmers by reducing the taxable value of farmland. It requires the CAUV formula to use a capitalization rate according to numbers published by US Department of Agriculture on the average rate of return for farm equity over 25 years. This will allow for a more accurate calculation on a farm's property tax because more consistent numbers will be used and there will be less susceptible to drastic changes.

"Everybody likes when taxes go down and don't like when taxes go up. But it's not a good thing when they swing," Porteus said. "The changes should create a more accurate reflection and take out the big swings."

The reforms will begin with the 2017 valuations, which will impact farmers in 41 counties. However, Muskingum, Coshocton, Perry, Morgan and Guernsey counties are scheduled for revaluations until 2018. According to Hill, area farmers can expect to see about a 22 percent savings.

The reform also removed the penalty on farmers who place land in conservation practices that protect water quality. Kyle Croft, a farmer in Coshocton County, saw his taxes increase by about 55 percent in 2014 alone, but his taxes weren't his only additional expense.

Between Croft, his father and brother, the family farms about 1,500 acres of land. Part of that land includes more than 300 acres the family leases, which has also become more costly as the land owners have raised the price to rent because of the increase in taxes.

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Croft said he's happy that changes have been made to the formula, but he's not going to breath a sigh relief until he see's his bill actually decreased.

Bell, Porteus and Croft all agreed on one thing. In any given year, the weather can create a huge problem. so it's nice to have one burden lifted off their shoulders.

"It was a big effort and a big win for Ohio Ag," Bell said. "CAUV is a great thing. It has always helped. The redoing of the formula is going to help."

OHIO - Property tax deal proposed for NuCLEus project

The developers behind Cleveland's first major skyscraper in decades are proposing a complex property tax deal to move NuCLEus forward.

Stark Enterprises said the arrangement would clear the way for construction of the 54-story tower and mixed-use project that would include restaurants, retail, apartments, offices, a hotel and more than 2,000 parking spaces.

Under the proposal, the Cleveland Metropolitan School District would receive a lump sum payment of property taxes up front, which would assist the developer in its financing.

Bob Stark, President and CEO of Stark Enterprises, called NuCLEus a catalyst for downtown growth, comparing the project to Terminal Tower a century ago. Planned for a site now occupied by a parking lot across from Quicken Loans Arena and bordered by Prospect Avenue and East 4th Street, it marks a departure from the trend of renovating existing buildings.

"We need desperately to advance the process to the point where we're building new great architectural projects that change our skyline in Cleveland if we want to be a major league city in the 21st century," Stark said.

The ambitious project will cost an estimated \$542 million, but its property valuation upon completion is expected to be just \$250 million. That difference prompted Stark Enterprises to propose tax increment financing (TIF) that would allow it to use future property tax payments to repay construction debt and help close the financing gap. Stark said financing must come from several sources for such a large project, and the public component is critical.

"Without that assistance, it's completely impossible to do because there's a total disconnect between how property is appraised in downtown Cleveland and what it costs to build something new that's iconic and that's world class," Stark said. "We don't have the rents to support it."

Under the proposed TIF, publicly unveiled this week by the Cleveland Metropolitan School District, the district would receive \$18 million in guaranteed property tax revenue from Stark Enterprises up front, instead of variable long-term tax revenue. Taxes paid by residents would not be impacted.

CMSD said it would use the money in its continuing building construction and renovation program, so it would be eligible for \$38 million in matching funds from the state of Ohio, bringing the total to \$56 million.

Stark said that money would be more valuable than the amount the district would otherwise collect over the next three decades while the TIF is in effect.

"That's real easy math to figure out that \$60 million today is worth hundreds of millions of dollars over a 30 year period," Stark said.

The parking lot at the proposed site of NuCLEus currently generates about \$360,000 per year in school taxes, according to CMSD, and the financing deal only affects new tax revenues beyond that. If the property becomes valued at more than \$250 million, Stark Enterprises would be responsible for paying additional taxes.

Tax increment financing has been used in Northeast Ohio before, including for the Flats East Bank and Key Tower, according to Stark, but this arrangement is unique.

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CMUSD is hosing eight information sessions over the next few weeks before the Board of Education votes on the proposal on August 22. Cleveland City Council will have final say on the agreement and is expected to vote in September.

Ward 3 Councilman Kerry McCormack, whose ward includes downtown, said he supports the deal, which would likely lead to school construction projects outside of downtown.

"It's an example of how we can support downtown development and also support neighborhoods outside the downtown neighborhoods," he said. "It's a catalytic project for downtown Cleveland, and it shows the positive momentum in Cleveland is continuing."

Stark said construction could potentially begin at the site in the summer of 2018.

ILLINOIS - Berrios forced to play defense as county property valuations scrutinized

With questions swirling around his record as Cook County assessor, Joseph Berrios will take the unprecedented step Tuesday of defending his office before the Cook County Board after a Chicago Tribune investigation exposed widespread inequities in the county's property tax system.

Published in June, "The Tax Divide" showed the assessor's office overvalued low-priced homes while undervaluing high-priced ones. These disparities in assessments — known as regressivity — led to inequities in property tax bills, giving the wealthy unsanctioned tax breaks while penalizing low-income residents.

In the weeks since, mounting pressure has put the assessor on the defensive. The county's independent inspector general opened an investigation; lawmakers at the state and local levels proposed legislation to limit the assessor's ability to raise campaign contributions from tax attorneys; and a bill has been introduced in the General Assembly that would require greater transparency.

Among the questions Berrios is likely to face at Tuesday's hearing: Why did his office tout and then quietly abandon a new residential valuation model funded by the MacArthur Foundation designed to reduce regressivity?

After the Tribune reported that the assessor's office hadn't implemented the new model, despite issuing a July 2015 news release saying it had, Berrios and his staff criticized the model as well as the experts who led the effort to create it.

Both of those experts — Robert Weissbourd, president of the consulting firm RW Ventures, and University of Chicago public policy professor Christopher Berry — are scheduled to testify at the hearing.

Among other criticisms, the assessor's office said it had told Weissbourd and Berry before issuing the news release that their model was flawed. After the series ran, Deputy Assessor Tom Shaer produced three emails that he said proved the two had "the temerity" to mislead the Tribune into believing otherwise.

Since then, Weissbourd has produced dozens of additional emails showing that the issues raised in the messages Shaer cited were part of a multiyear effort to test and implement the new model and had been resolved before the office produced the news release.

County commissioners also may address the question at the heart of the controversy over the models: how exactly the assessor values the county's 1.5 million residential properties. The office has refused to disclose crucial details about its methods.

One of Berrios' recent attempts to defend his record has already evaporated. Late last month, the assessor's office posted on its website a news release that cited a study by a prominent research organization as proof that the county's assessments are fair and accurate. Berrios invoked the same study during a rare television interview, also in late June.

However, a close examination of the study shows that its focus was on tax rates, exemptions and other policy issues in all 50 states; it was not an evaluation of how accurately the assessor's office values property.

Adam Langley, a lead author of the study by the Massachusetts-based Lincoln Institute of Land Policy, confirmed that county officials mischaracterized the report.

"Our study is not about assessment accuracy," Langley said. "That's a separate issue."

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The institute issued a statement to the assessor's office as well as county commissioners last week in an effort to set the record straight.

Two days later, the assessor's office removed the news release from its site "to do further work regarding it," Shaer said.

Tuesday's hearing will see Berrios, who also is chairman of the Cook County Democratic Party, facing off against many commissioners who rely on the party for political support.

Berrios received more than half of his campaign contributions from the property tax appeal industry, the Tribune has reported. Appeals increased dramatically under Berrios, but an analysis carried out in cooperation with the University of Chicago's Berry found the process makes the assessment system even less fair.

Commissioner Jesus "Chuy" Garcia, who has introduced an ordinance to block the assessor from receiving contributions from tax attorneys and other businesses that file appeals, was among the first commissioners to request that Berrios testify. Berrios will appear at a Finance Committee hearing with the full board in attendance.

"At the heart of all this are the working people who are already hurting from increases in property taxes," Garcia said in an interview. "We can't tolerate a system that may be penalizing them. It's just not fair."

A changing story

In seeking to defend its assessment practices, Berrios' office sent four pages of bullet points to county commissioners contending, among other assertions, that the assessment model funded by the MacArthur Foundation produced inaccurate results. (The MacArthur Foundation has been a significant funder of the independent news organization ProPublica, which is collaborating on this story with the Tribune.)

"Simply put, this so-called 'improvement' is unfit for exclusive, primary or even somewhat primary use," the document stated.

And in television and radio interviews after "The Tax Divide" was published, Shaer said the office had been optimistic about the MacArthur-funded model at the time but later discovered it produced erroneous results.

Until the Tribune launched its investigation, however, Berrios had offered nothing but public praise for the new model.

A July 2015 news release headlined "Cook County Assessor Berrios Implements New State of the Art Residential Assessment Model" described it as a "breakthrough" that improved accuracy by 50 percent and lowered regressivity by 25 percent.

As recently as April 2016 the assessor's office was encouraging reporters to look at the model as evidence its assessments were fair and accurate. Officials even gave Weissbourd and Berry permission to provide reporters with a slide presentation showing how the new model improved assessments.

Around the same time, Berrios' office also provided reporters with studies that concluded the new model outperformed the old one on every measure used by assessment experts around the world to evaluate fairness and accuracy.

When the Tribune analyzed millions of property tax records from the 2015 tax year, however, the results suggested the assessor had not actually implemented the new model.

Presented with those results in August 2016, officials then stated they were using the new model in conjunction with the old one, though they would not disclose how they did so. That was news to Weissbourd, Berry and MacArthur Foundation President Julia Stasch, all of whom had been quoted in the news release.

By then, the Tribune had used open records laws to obtain the new model along with computer records showing the results the office obtained from it. An examination of the computer code showed the office had made numerous errors when it ran the new model.

When those errors were pointed out during a September 2016 interview, the assessor's office changed its story again, saying the new model had not been implemented because it had "issues" and produced inaccurate results. The office also said Weissbourd and Berry had been told about the problems, which the two said was untrue.

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After publication of the Tribune series, Shaer produced three emails that he said proved the assessor's office had informed Weissbourd and Berry that the new model was flawed before issuing the news release. One of the emails wasn't about the model at all; the others, sent in 2012 and in 2013, related to ongoing discussions about how to implement the new model.

The set of emails provided by Weissbourd show that the issues raised in those messages were resolved. There is no evidence in the emails that the assessor's office alerted Weissbourd or Berry about issues with the new model before issuing the news release.

Two weeks before the 2015 announcement, the office's head of residential valuation, Al Sarro, wrote to Weissbourd seeking feedback and requesting quotes for the news release announcing the launch of the model.

"Please take a look and add your thoughts," Sarro wrote in an email, which was provided by Weissbourd. "And also can you reach out to Chris (Berry) and Julia (Stasch) for any quotes they would like to add?"

When asked to comment on this set of emails, Shaer said the assessor's office stands by its earlier statements that the model's developers had been informed it was flawed.

Criticisms refuted

When Berrios held a June news conference to address the findings of "The Tax Divide," he brought along a researcher from a for-profit government services company that holds \$65 million in county contracts, including a \$30 million contract to set up a new property tax computer system for the county.

Richard Borst, of Tyler Technologies, criticized the MacArthur-funded model as well the Tribune's analysis.

At the news conference, Borst handed out two pages of talking points that said, among other arguments, that the Tribune did not disclose enough technical information to make its analysis credible. But when a Tribune reporter pointed out that a 100-plus-page study had been posted online, Borst acknowledged he hadn't read it.

Borst also repeated assertions by the assessor's office that the analysis had included invalid sales involving the liquidation of estates of the deceased.

In fact, the analysis screened out those sales and other transactions that are not considered valid; the study was vetted by three industry experts, including two who helped write standards for the International Association of Assessing Officers.

Borst also took aim at the MacArthur-funded model, saying Berry and Weissbourd's team had made "rookie mistakes" that caused the model to be "fundamentally flawed." For example, he said the new model "disregards location" and makes no use of geographic information systems, or GIS, to value property.

However, the new model does include location information. As for GIS, Berry said he and his team of statisticians had wanted to use GIS programs to further improve the accuracy and fairness of assessments, but the assessor's office told them it didn't have the necessary technical ability.

"It's shocking that Mr. Borst is defending the assessor's regressive assessments, especially without even having looked at their models," Berry said. "Rather than get distracted by this nonsense, the assessor should get on with the business of fixing their unfair system."

Borst's firm declined to make him available to be interviewed for this story.

Asked at the news conference if he had examined the model that the assessor's office actually uses, Borst said he hadn't.

"That's not for me to say," he said. "That's not my job."

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Tampa to discuss raising property tax rate for first time in 29 years

The last time Tampa raised its property tax rate, the president was George H.W. Bush (the dad) and gasoline cost 97 cents a gallon.

Since then, not raising the tax rate has been an article of faith at City Hall.

But that could change this year.

On Thursday, Mayor Bob Buckhorn will present a proposed 2018 budget to the City Council that could total \$900 million or more. He also will ask the council to consider raising the city's property tax rate for the first time since 1989.

"We're going to have the discussion," he said. "The decision that council will be asked to make is, after 29 years, do we look at a millage increase? ... It will ultimately be up to the council."

Property tax bills are based on two factors.

The first is the tax rate — known as millage — levied by local governments, School Boards and other agencies such as the port, children's board and water management districts. In Tampa, the tax rate is 5.7326 mills — or about \$5.73 in city property taxes for every \$1,000 of assessed, non-exempt property value.

That means the owner of a homesteaded house assessed at \$154,699 pays an estimated \$600 a year in city taxes.

The second factor is the assessed value of the property being taxed. As the value of property rises in value, it generates more tax revenue for local governments, even if the millage rate does not change, too. (Thanks to Florida's Save Our Homes limit, the growth of homeowners' assessments is capped at 3 percent. The growth in assessments for rental property, commercial property, vacant land and new construction is not subject to the Save Our Homes cap.) As a result, cities and counties with growing taxable values have effectively raised property taxes in recent years even if they kept the same millage rates.

Buckhorn said he wouldn't talk about how much the property tax rate could rise until he presents his proposed budget to the City Council at 9 a.m. Thursday.

"Once we lay out the numbers for them, I think the path will be pretty clear," he said.

Florida Department of Revenue statistics show that Tampa is one of three Florida cities — along with Hialeah and Fort Lauderdale — with populations over 100,000 that have not raised their millage rates since 2008. Orlando's rate went up 1 mill in 2014. St. Petersburg raised its rate in 2012 and has since lowered it a bit. Clearwater passed an increase in 2009.

So why have this discussion now?

It's not so much what's happening this year. To the contrary, taxable property values in Tampa have grown a healthy 9.3 percent. That was a pleasant surprise for city officials who had expected 8 percent growth.

Instead, Buckhorn said, it's what's coming in the future: some long-deferred debt payments, the likelihood that voters next year will expand the homestead exemption, declining revenues from sources other than property taxes and the possibility of an economic downturn.

"The difficulty in this budget is thinking two, three, four, five years down the road," Buckhorn said. "What I'm trying to do is not build a budget for this year but prepare for the out years, even though I won't be the mayor. ... If the tough decisions have to be made, I'd rather it be me than putting the burden on the next mayor."

Big bills coming due

In 1996, then-Mayor Dick Greco needed to get the Police Department into a new headquarters, build a couple of police district substations, buy new fire engines and build a fire and police communications center.

But City Hall wasn't flush with cash and was on the hook to help pay for the Florida Aquarium and a downtown hockey arena. Raising property taxes was a non-starter.

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So Greco asked the council to approve borrowing about \$24 million, with repayment to be delayed 20 years. No one liked the idea, but the council approved it 5-to-2. Then-council member Bob Buckhorn voted yes, though not before asking whether the city could somehow tap the fire and police pension fund for help. (No.)

Now, Buckhorn acknowledges, "the chickens have come home to roost."

The city will pay \$6 million on that 1996 debt this year, and \$13.8 million a year for several years after that.

On top of that, the city has to repay a 1997 federal loan of \$6 million borrowed to help develop the Centro Ybor shopping and movie complex.

Dropping revenues

While property values (and revenues) are rising, they're still well below their pre-recession peak of \$166.2 million.

This year, property taxes — the city's biggest single source of revenue — are projected to bring in \$155 million, which is less than the cost of running the Police Department alone.

Meanwhile, other revenues have fallen or could drop:

- In 2009, the city got \$29.9 million from a communications services tax on land-line telephones. This year, with cell-phone users cutting the cord, that tax will bring in \$18.1 million.
- With lower interest rates, the city earns less on money it holds before it has to be spent: Interest earnings were \$23.6 million in 2008. They're \$2.8 million this year.
- President Donald Trump's proposed budget threatens to eliminate several federal programs, including the transportation grants the city used to finish the Riverwalk, Community Development Block Grants, which can be used for a variety of local efforts and Choice Neighborhood grants, which provided \$30 million for the Encore Tampa redevelopment project near downtown.
- The Legislature has scheduled a 2018 referendum on expanding the homestead exemption. Tampa officials assume it will pass, and estimate that it will reduce property tax revenues by \$6 million. Buckhorn said other bills proposed in the Legislature this year could be back again next year, and if passed, could restrict the city's ability to borrow money, raise the millage or maintain reserves.

"We're absolutely more reliant on property tax revenues, because many of those other sources are drying up," Buckhorn said.

The business cycle

While construction and real estate are booming now, that could change.

"At some point, you've got to recognize that if you're continue to invest in projects (like) parks and rec, you've got to increase revenue," Buckhorn said. "You can't just rely on the increase in property values if you're going to build a long-term plan, because that's going to fluctuate. We were lucky this year that we had 9.3 (percent growth). Next year that could drop to 5 or 6 or 7 (percent)."

Going into Thursday's meeting, Buckhorn has alerted council members what's coming, though he hasn't shared details on the how much of a millage rate increase he could propose.

Given the seriousness of the idea, it's good that Buckhorn is putting it out there this year, said Harry Cohen, who chairs the council's finance committee. If it were his own family's finances, he said, he would want to start thinking about the possibilities well in advance.

"This is a very, very serious thing to talk about doing," Cohen said. "The details will ultimately guide the discussion. The ultimate question is, are the investments that are being proposed worth making?"

International Property Tax Institute

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Trump Golf Courses Fighting Taxes Across U.S.

President Donald Trump is waging war in the courts over how much tax he owes on his many golf courses in the U.S.

The president was in Bedminster, New Jersey Friday night for the U.S. Women's Open Golf tournament. Bedminster is just one of 12 golf resorts that bare his brand.

In Jupiter, Florida, the Trump National Golf Club is a 285-acre state-of-the-art property. He hosted Japan's Prime Minister Shinzo Abe there earlier this year, where the two hit the tees on the lush, luxurious course.

In federal election filings just last month, the Trump organization claimed the property's value is more than \$50 million.

But in a lawsuit filed Thursday against Palm Beach County, Trump's lawyers argue it's worth far less than the county's \$18.4 million assessment.

In 2014, they valued it at "no more than \$5 million."

Why?

"If you lower the value, you pay less taxes," said Professor David Herzig at the Valparaiso School of Law.

Taxes — that go back into the town.

"Yeah, it's about how much you pay the state of Florida and the city and the county of Palm Beach," he added.

It's a years-long pattern that is practically repeated every year. Public records show President Trump has fought the tax assessments on all 12 of his U.S. golf courses, except the one in Bedminster, where he gets a farm land tax break for having goats on the property.

The Trump organization is also suing the small town of Ossining, New York, with a population of 40,000, to lower his taxes on his Westchester course. Touting a 101-ft waterfall at the 13th hole, Trump National claims it's the most expensive golf hole ever constructed.

In campaign filings, Trump says the course is worth more than \$50 million. But in 2015, his attorneys argued the course was worth only \$1.35 million.

The tax difference between those two values is about \$425,000 a year.

"I just think it's so unfair," said Ossining Town Supervisor Dana Levenberg. "Who is gonna be paying the difference, except the people of Ossining?"

Trump's lawyers are also fighting the people of Rancho Palos Verdes south of Los Angeles, home to another luxury golf resort.

Public tax documents obtained by CNN show in 2007, the course was worth \$67 million.

Year after year, however, the president filed hundreds of appeals to drop the value of the golf course by tens of millions of dollars. All those appeals have dropped the value to \$27.7 million, down \$40 million in nine years.

Multiple tax experts tell CNN that Trump is not alone in what's doing. Many wealthy people have attorneys fighting to lower their tax burden.

Professor Herzig finds that just as problematic.

"If you think the system is easily manipulated, why should the average person have to pay taxes or value property properly or pay their fair share," he wondered

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Ladysmith denies Walmart request to cut assessment

The Ladysmith Board of Review unanimously rejected a Walmart request to have the assessed value of its store in the city by about 36.3 percent, from \$8.90 million to \$5.67 million. If approved, the company would have had its property tax bill reduced by about \$73,511 based on the 2016 county mill rate.

Walmart representative Lane Thor argued for the assessment change citing information of a former Sam's Club building sold in March of this year in Milwaukee. The building was built in 1991. It was assessed at \$5,477,000 and sold for \$2,882,000.

Thor told the board based on this sale company officials believe the assessed value of the Ladysmith Walmart built in 2007 should be assessed for somewhere between \$40 and \$50 per square feet. Walmart filed an objection with the city, requesting the assessed value of \$8,900,300 for its Ladysmith store be reduced to \$5,669,125 based on \$55 per square foot.

The property assessment reduction is being called a Dark Store Tax Loophole, and could save big box retailers millions in taxes nationwide if they can convince communities where they own buildings to reduce their property assessments, resulting in a tax shift to homeowners or a cut in local services.

In essence, the Dark Store strategy is a tax loophole being used by Big Box retailers and other national chains to lower the amount they pay in property taxes. Retailers such as Lowe's, Target, Meijer, Home Depot, and Menards are arguing that the market value of their thriving store should be based on the sales of similar size "comparable" properties that are vacant and abandoned.

If this strategy becomes successful in the state it could result in a shift of millions of dollars in tax burden unless the loop hole is closed by the Wisconsin Legislature. In Indiana lawmakers passed legislation closing off these tax strategies by prohibiting assessors from valuing thriving big box stores the same as abandoned buildings in a different market segment.

Thor said it is very difficult to sell these large vacant buildings because big box retailers have specific needs and tend to build new instead of trying to make an existing building work. As a result, when these large vacant stores do sell they are sold at a reduced price somewhere between \$30 and \$40 per square foot.

The Milwaukee Sam's Club was vacant and not an operating store at time of sale. The span of big box stores is between 25 and 30 years.

The Wisconsin League of Municipalities is calling the tax challenges "a carefully-orchestrated wave of 100s of lawsuits." A small sampling of data prepared by the League shows property tax impacts on homeowners ranging from \$197 in La Crosse to \$893 in Pleasant Prairie if the national chain's tax challenge strategy is successful.

At least 12 states, including Wisconsin, are now experiencing property assessment challenges based on Dark Store Theory and where applied successfully, municipal officials are faced with its impact, according to Pamela Matthews at University of Wisconsin-Milwaukee.

"The stakeholders impacted by utilizing the Dark Store Theory method of appraisal include all property taxpayers, municipal officials, and the community as a whole. The stakeholders that benefit from employing DST, however, are the few property owners, primarily big box retailers who are able to successfully argue for a lower property assessment," Matthews said. "This positive impact for these few property owners has a negative impact on others by increasing the share of the tax burden for all other tax-paying property owners who are left to pick up that difference when levies remain constant."

"Lastly, the community itself can also be impacted if services are cut when levies are lowered," Matthews said.

The League of Municipalities website lists 49 municipalities that have passed resolutions urging state legislature to close the Dark Store loophole.

Wisconsin Assembly Bill 386 introduced in the 2017-18 legislative session provides that, for property tax assessment purposes, to determine the value of property using generally accepted appraisal methods, an assessor must consider sales or rentals of properties exhibiting the same or a similar highest and best use with placement in the same real estate market segment and sales or rentals of properties that are similar to the property being assessed with regard to age, condition, use, type of construction, location, design, physical features, and economic characteristics.

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The bill defines “real estate market segment” to mean a pool of potential buyers and sellers that typically buy or sell properties similar to the property being assessed, including potential buyers who are investors or owner-occupants. The bill also provides a property is not comparable to the property being assessed if the seller has placed restrictions on the highest and best use of the property or if the property is dark property and the property being assessed is not dark property. The bill defines “dark property” as property that is vacant or unoccupied beyond the normal period for property in the same real estate market segment.

A recent appraisal of the Ladysmith Walmart has not been done, according to Thor. He could not provide data for how much Walmart paid for the property in 2007. He also could not provide the construction cost to build the store.

There are three possible methods to assess commercial property, according to City Assessor Barrett Brenner.

The income approach is used when a retailer leases the property. Since Walmart is the owner this approach cannot be used.

Another method is the comparable sales approach, but the comparable sale presented at the meeting was determined not a good comparable because it is a vacant building built in 1991, according to Brenner.

The Ladysmith Walmart is not a vacant building, and it is an operating business, making it more valuable, he said. Brenner explained there are no relevant comparable sales regionally to consider.

The third method that can be used is the cost approach and in this case, this is the method being used to assess the Walmart commercial property.

Brenner told the board the Ladysmith Walmart was assessed in 2008 at \$8,900,300 and the assessed value has remained the same since then.

When the comparable sales approach is used it is necessary to determine if it was an arm’s-length transaction, meaning there is no distress or forced sale, according to City Clerk Shari Kavanagh

It was presented at the hearing big box stores are difficult to sell because retailers needing large buildings are building new to their specifications. However comparables presented at the meeting were a vacant store that the seller could have sold low just to move the building.

Ladysmith Mayor Marty Reynolds said there were at least two properties — a former Shopko in Lake Hallie built in 1981 and a former Home Depot in Wausau — that should be disregarded due to the age of the buildings and both buildings were vacant.

Among the remaining properties, the Ladysmith Walmart assessed value is less than the Walmart store in Rib Mountain and very comparable to the Sam’s Club also in Rib Mountain.

Reynolds said the city’s Walmart assessment is in line with other area Walmart assessments. He called the company very aggressive in marketing and successful in the local market.

“This is the first step in going to an appeals court on the assessment,” Reynolds said. “We don’t believe it will be overturned.”

Will Seattle's income tax on the rich backfire?

Seattle Mayor Ed Murray describes the city's new income tax on affluent residents as "a new formula for fairness," but some experts are asking whether the controversial plan will deliver what it promises.

The income tax is designed to help narrow the growing divide between rich and poor in a city with a fast-growing technology sector. Murray also framed the tax as a response to President Donald Trump's budget, which proposes to cut federal spending on social services, housing and other sectors that deeply affect U.S. cities and states. Seattle suffers from a housing crisis, with one study finding that only 0.4 percent of homes are currently for sale, a decrease of more 13 percent from a year earlier.

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The city's income tax on the rich is unusual in several ways. First, although state and national income taxes tend to be progressive -- meaning that wealthier individuals face higher tax rates than low-income Americans -- cities with income taxes tend to rely on flat rates. Second, Washington is one of a handful of states without an income tax, which raises questions about whether wealthy Seattle residents will choose to move outside the city limits.

"It remains to be seen what it's like in Seattle, because you'll have an income tax surrounded by no income tax," said Joseph Henchman, executive vice president of the Tax Foundation, a nonpartisan tax research group. "How much do people like to commute?"

Anecdotally, some cities with income taxes may have seen residents leave for the suburbs, although those taxes apply to all residents and not only the rich. Philadelphia, for instance, applies a tax rate of almost 4 percent to its residents. The first city to levy an income tax on residents, Philadelphia lost about 300,000 jobs between the 1960s and 1990s, which one finance expert told tech news site Technical.ly was partially caused by the wage tax.

To be sure, some cities with income taxes don't appear to have seen much of an impact, such as New York City. Residents of the city, home to Wall Street, have largely shrugged it off, perhaps in part because workers who move out of its five boroughs are likely to face long and costly commutes. New York City's population grew 4.4 percent from 2010 through 2016. By comparison, Philadelphia's population rose about 2.7 percent in the same time period.

Under the tax, Seattle residents who earn more than \$250,000 or couples who earn more than \$500,000 would pay a 2.25 percent tax on any income above those amounts. The city estimates it will raise \$140 million in new tax revenue each year, which it said would allow Seattle to replace funding lost through President Trump's budget cuts and to ease the burden of other taxes.

But it's certain that some of those revenue gains would be lost in the cost of administering the tax on the wealthy. Other cities with income taxes piggyback off their state's tax system. But since Washington state has no income tax, Seattle would need to create a "mini-IRS" to perform their own audits and conduct enforcement, Henchman said.

Seattle estimates it will spend about \$5 million annually to implement the tax, after an initial set-up cost of as much as \$13 million.

As for Washington's wealthy residents, responses to the tax range the gamut. Software developer Carissa Knipe, who said she earns more than \$170,000 per year, told the Los Angeles Times she supports the tax, saying the city "should serve everyone, not just rich folks." Former Microsoft (MSFT) CEO Steve Ballmer has argued against the tax, saying it will drive jobs elsewhere.

To be sure, some of the region's wealthiest citizens don't live in Seattle, such as Bill Gates, the world's richest man. The Microsoft co-founder lives in a \$123 million lakefront mansion in Medina, Washington.

"It's an ongoing debate everywhere in the country: What is the purpose of taxes?" Henchman said. "There is a case to be made if redistribution is the goal, it's harder in the city of Seattle" because of the smaller tax base than at the state or federal level.

Washington state's Republicans are urging citizens to engage in "civil disobedience" by refusing to comply with the tax, calling it unconstitutional and in violation of state law. The tax is likely to face a legal challenge, with Henchman noting there could be legal constraints, including that it may violate a state provision that all property and income taxes be uniform and equal.

"It's one of the more brazen examples I've seen of defying state law," Henchman said. "If it was just about the law, it couldn't survive, but my worry is the judges will think about other considerations."

Utah Residents Criticize Cities for Relying on User Fees

Utah cities are quietly balancing their budgets by raising fees on electricity, water and other services instead of raising property taxes, a politically difficult process that requires elected officials to host public hearings.

Sandy has taken about \$1.2 million raised from water sales and placed it in general funds to balance the budget every year since 2011, The Salt Lake Tribune reported Tuesday. Provo and Lindon officials have made similar moves over the years.

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Some residents and legislators argue that the process isn't transparent and should be curbed. In Sandy, resident Mark Randall said Mayor Tom Dolan and other officials have bragged about long run without tax hikes.

"He's not raising property taxes, he's just fee-ing us to death," said Randall, who hopes for more scrutiny of the issue. "If he said he's going to raise property taxes, he'd have to have a truth-in-taxation hearing, and it would pack City Council chambers."

But officials insist that using funds raised by fees is an easier, cheaper way to balance budgets and ensures that tax-exempt organizations such as churches pay their share of the cost of government.

Republican Rep. Jefferson Moss of Saratoga Springs and Sen. Howard Stephenson of Draper attempted to draft a bill to end the practice, but they had to scale it back after it was met with intense opposition.

"I was told by the League of Cities and Towns this was the most controversial bill in 30 years," Moss said. "I will tell you it was WWII with the cities."

The bill was changed to continue allowing the use of funds raised by fees as long as cities send out notices and hold public hearings regarding each transfer.

"Now it's going to be in the hands of the residents," Moss said. "I'd rather have it come from (them) than us micromanaging."

Moss said he hopes that with that change, residents will be able to chime in and let officials know whether they think a tax increase or belt tightening would be a more beneficial way to balance the budget.

TEXAS - Property values, appraisal protests continue to rise in Harris County

Most residential property values in Harris County have increased since last year, leading to a surge in appraisal protests and legislation proposed to address rising tax rates. However, this year's increases are less steep, according to the Harris County Appraisal District.

This year, 58 percent of residential property values increased. HCAD assigned increases to 59 percent of county properties in 2016, 83 percent in 2015 and 72 percent in 2014.

HCAD Chief Communications Officer Jack Barnett said the number of properties receiving a higher appraisal is leveling off after sharp increases occurred in 2014 and 2015. Before that, property values had decreased significantly during the recession that began in 2008.

"The Houston economy was one of the first in the nation to start rebounding, and there was a lot of job growth and a lot of people were moving back into the area and starting to buy properties. That was the reason that property values were increasing," Barnett said.

This trend is reflected in the average market value of homes in Spring and Klein. In Klein ISD, the average market value of a home increased 18 percent in 2014 from 2013, but it has climbed only 3 percent so far in 2017, according to HCAD.

In the area of Spring ISD west of I-45 and north of FM 1960, the average market value of a home rose 14 percent in 2014 and 8 percent so far in 2017. And in the area east of I-45 and north of FM 1960, the average market value of a home rose 21 percent in 2014 and only 10 percent so far in 2017.

Protest of values

HCAD bases its property value assessments on the sale prices of similar properties in the area, Barnett said. After the appraisal office sends assessment values to property owners, homeowners have the right to protest the amounts if they think they are inaccurate or unfair—the deadline to file a protest is May 31.

This year, 371,000 protests have been filed, which is an increase from 365,000 last year. Barnett said about 355,000 protests have been filed every year for the past five, but the number is increasing as the county's population increases.

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Protests can be resolved online, in person with a district appraiser or by an appraisal review board, which consists of local citizens and which functions independently from HCAD.

Barnett said HCAD has held workshops at churches and community centers throughout the greater Houston Area every spring since 2014 to increase public awareness of the assessment process, the protest process and the agency's connection to property taxes.

With all of the attention property taxes received in the state legislative session, Barnett said it is increasingly important the public understands the appraisal district's role: it does not set the tax rate, send a tax bill or collect taxes.

Lawmaker's concerns

In the special legislative session that begins July 18, Sen. Paul Bettencourt, R-Houston, said he plans to continue to pursue property tax reform legislation.

During the regular session Bettencourt authored Senate Bill 2, which proposed lowering the property tax revenue cap for cities and counties from an increase of 8 percent to an increase of 4 percent.

The bill also called for elections to be held if a city or county were to exceed the revenue cap. The bill did not pass the House, but Bettencourt said he will reintroduce similar legislation when lawmakers meet again.

Bettencourt said he wrote SB 2 after hearing almost 50 hours of public testimony on how increasing property taxes have become a burden for taxpayers.

Amy Smythe-Harris, owner of Urban Provision Realtors in Houston, said she has heard similar claims from clients this year.

"This past year was a huge increase in assessed value—not the tax itself but the assessed value," Smythe-Harris said.

Harris County Judge Ed Emmett has said there is little flexibility in reducing property taxes as a revenue source because the county's continuous growth means it needs to be able to provide for increasingly larger numbers of residents.

However, Harris County provides a property tax exemption—which the Commissioners Court in June voted to extend by a year—for residents who are older than 65. Qualifying homeowners do not have to pay county taxes on the first \$160,000 of their property value.

NEW YORK - Albany hires outside firm to probe tax-break error

A city-based law firm has been hired to investigate tax breaks mistakenly granted to residential units not qualified to get them.

Hodgson Russ was selected by Mayor Kathy Sheehan's office to examine what properties were given the benefit, determine if they qualify, review the impacts of the errors and suggest alternatives to address those owners that may be receiving the break unwarranted, according to the agreement between the city and law firm provided to the Times Union on Wednesday.

The firm was hired on an hourly basis ranging from \$275 to \$287 depending on the attorney working on the matter. Fees were waived for tasks like photocopying, travel and filing.

Sheehan's chief of staff Brian Shea said city Corporation Counsel negotiated with the firm to get the reduced costs, which were initially proposed in the contract to range from \$210 to \$815 per hour.

"They have a great deal of experience and expertise in real property tax law, and that's really what it came down to because we want the review to be accurate," Shea said.

City Assessor Keith McDonald, who served Albany in the role for 30 years, retired last month after admitting to an Albany Business Review reporter that he mistakenly gave the exemption to condominiums and apartment complexes that were developed only for residential use, rather than mixed use.

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Section 485-a of the state's real property tax law allows for a special tax exemption for certain commercial properties such as warehouses that are converted to mixed-use buildings with both commercial and residential areas.

One location called out for the improper break was 17 Chapel — a condominium complex where individuals purchased units when it was first built about four years ago.

There are 51 units in the city receiving the 485-a tax abatements and 24 of them are at 17 Chapel St.

It's unclear whether eight additional units are properly receiving the exemption, which will be investigated. However, city officials have said the rest are mixed use and warrant the exemption.

The law firm selected provides counsel to businesses, governmental entities, nonprofit institutions and individuals throughout the country and world on an array of legal topics, including tax credits and disputes, real estate and construction.

The city did not put out a request-for-proposal when seeking a law firm to investigate, Shea said.

Hodgson Russ' clients include the Albany City Industrial Development Agency and Albany Parking Authority.

The law firm's interfacing with the IDA is beneficial, however, Shea said the firm was selected for the expertise and capacity for a quick turnaround.

New York's 2018 property tax cap set at 1.84 percent

Next year will be the fifth in a row in which local governments will have less than 2 percent tax cap.

The state's property tax levy growth for local governments with fiscal years ending Dec. 31 will be capped at 1.84 percent for 2018, according to New York State Comptroller Thomas DiNapoli's office.

The figure affects the tax cap calculations for all counties, towns, fire districts, 44 cities and 10 villages across the state.

"After two years of tax growth being limited to less than one percent, inflation has crept up resulting in the highest allowable levy growth since 2013," DiNapoli said. "This increase is offset by rising fixed costs and limited budget options. I continue to urge local officials to exercise caution when crafting their spending plans."

The tax cap, which first applied to local governments in 2012, limits tax levy increases to the lesser of the rate of inflation or 2 percent with some exceptions, including a provision that allows municipalities to override the tax cap.

Although the growth factor climbed noticeably from the 0.68 percent cap in the current fiscal year, the 2018 fiscal year will be the fifth year in a row that local governments have had their levy growth capped at less than 2 percent.

By comparison, property tax levy growth for school districts was capped at 1.26 percent for the 2017-18 fiscal year.

The comptroller's office also issued a report on Friday detailing the impact of federal aid on New York's municipalities and school districts.

In 2015, local governments and school districts outside New York City received \$4.7 billion in direct federal aid. Separately, New York City received \$7 billion, of which \$1.7 billion went to funding the city's public schools.

"Local governments receive much-needed federal aid that supports our schools, fixes our roads and keeps our communities safe," said DiNapoli. "But potential policy changes in Washington could have a considerable impact on local government operations. In today's political climate, it's important for New Yorkers to get a sense of how much funding is at stake and what programs might be at risk."

In areas outside New York City, counties received \$2.6 billion, or 55 percent of the total federal aid reported by local governments, school districts \$1.6 billion (33 percent), cities \$274 million (6 percent), towns \$198 million (4 percent), and villages \$82 million (2 percent).

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How heavily local governments rely on federal aid as part of their individual revenue mix varies by class. In 2015, federal aid as a share of total revenue was the highest for counties (11.2 percent), followed by New York City (10.1 percent), New York City schools (6.5 percent), other cities in the state (5.7 percent), other school districts (4.1 percent), villages (2.9 percent) and towns (2.7 percent). Reliance on federal aid can also vary widely within these classes of government.

Generally, the type of federal aid New York's local governments received in 2015 supported a broad range of purposes, which includes social services, education, transportation, public safety, economic development, health, community services, culture and recreation, utilities and sanitation.

NEBRASKA - Douglas County property tax valuation protests number just over 6,600

Douglas County taxpayers filed just over 6,600 property tax valuation protests this year, the second most on record.

Almost 5,200 of those came from homeowners.

In Sarpy County, 673 property tax protests have been filed this year. That's down from 2016.

The deadline for filing or mailing a protest was June 30. A few postmarked by June 30 are still trickling in by mail.

In 2016, when the State of Nebraska mandated higher valuations across a large swath of Omaha, 4,874 Douglas County taxpayers filed protests. They included about 3,100 on residential valuations.

According to Douglas County Clerk's Office records dating back to 1995, the 2017 protest total is the second most on record. Taxpayers filed the highest number of total protests -- 10,660 -- and the highest number of protests on residential property, 8,705 -- in 2007.

This year, controversy arose from large proposed increases in thousands of Douglas County homeowners' valuations for tax purposes. County Assessor Diane Battiato trimmed the increases. Some County Board members held town hall meetings to explain the protest process.

While the number of protests is up, it still represents a sliver — about 3 percent — of the 220,000 real estate parcels in Douglas County.

Battiato noted that her office changed the valuation on 149,444 of those properties this year.

Last year, she said, her office changed the valuation on about 108,000 properties.

That means the ratio of protests to valuation changes was about the same this year as last: roughly 4.5 percent.

Referees — independent appraisal experts hired by the counties — are reviewing the protests.

They will make recommendations to the county boards, which will then set final valuations.

Taxpayers who filed a protest but still disagree can appeal to the Nebraska Tax Equalization and Review Commission.

KANSAS - County settles property tax case with Target

Riley County recently negotiated the property value of Target at \$1 million lower than the initial appraisal after the commercial retailer challenged the county through the state Board of Tax Appeals.

Target, with the help of a tax representative, was looking to reduce its 2016 property value from \$9.8 million to a little more than \$6 million.

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After postponing the hearing three times, the county compromised with Target's tax representative at a value of \$8.8 million, about the same value the county appraised the property at in 2015, said Greg McHenry, Riley County appraiser. At \$8.8 million, Target will pay \$227,194 in property taxes, or \$25,817 less than it would have with a property value of \$9.8 million. Had Target won its case and reduced the value to \$6 million, Target would have paid \$154,905 in property taxes for 2016.

The county hired a private appraiser, Tim Keller from Keller and Associates, for about \$4,000 to provide a second opinion for the case. The appraiser valued the property higher than the county's value, McHenry said.

If the county would have lost the appeal, it could have cost \$98,000 in property taxes split up between county, city and school district.

"At some point we kind of have to make a decision whether it's worth the risk of potentially losing even though we feel very strongly that our value is accurate, in an environment that the legislature now has made pretty one-sided."

In 2016, the state legislature passed a property tax law, House Sub. for SB 280, changing the property valuation procedure. The law states, in part: "County appraisers are prohibited from requesting certain information from taxpayers, including appraisals conducted for the purpose of obtaining mortgage financing, fee appraisals conducted within the previous 12 months, and documents detailing certain lease agreements."

It also says county appraisers are required to provide a summary of reasons for their valuation and all records that led to the county appraiser's higher valuation.

"When we go to the Board of Tax Appeals now the burden of proof is on the county," McHenry said. "Which is OK except that any time the other side presents evidence, they're not held to the same standard that we are."

It's not unusual for tax representatives to postpone a hearing for more than a year, McHenry said. When the county sets property values, mill levies have not been calculated yet, so postponing a hearing can become a problem as local governments create their budgets.

"If they continue to stall and postpone these hearings like they typically do then we're getting into another calendar year," McHenry said. "And if the county were to lose or even stipulate then we're in a position of having to refund monies instead of being able to hold the appeal before that all occurs."

Target and its tax representative initially indicated they would use the dark store theory during the hearing. The dark store theory is an argument that a commercial property, typically a big chain store, should be valued as if it were vacant. Tax representatives go to court with a list of sales of properties that are dark stores, typically older now vacant properties, and they think the court should use those sales to determine lower property values.

McHenry said that in most cases where large companies take the county to the Board of Tax Appeals, they're looking for a value at 50 percent to 60 percent of what the county's value is. Tax representatives, usually attorneys from bigger cities who have never visited the property they're representing, offer large companies property tax savings and charge a percentage of those tax savings for their services, he said.

"Which is a little frustrating because we feel it's not realistically an argument about the market value of the property," McHenry said. "They're really just trying to get paid through a tax savings through their client."

The county still has 13 cases waiting for a hearing at the Board of Tax Appeals, including Hy-Vee for its 2016 value, Fairfield Inn for its 2017 value, Regency Inn and Royal Inn for both their 2015 and 2016 values.

ILLINOIS - 2016 Cook County Property Tax Assessment Trends

For the past eight years, Franczek Radelet has tracked property tax assessment data by class of property from the Cook County Assessor's Office. Our data set begins in tax year 2009 when the classification ordinance was amended to reduce the assessment levels from 38% and 36% to 25% of market value for commercial and industrial property and from 16% to 10% of market value for residential property. The data also captures the effect of the Great Recession and the impact of the housing bubble.

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The latest data from the 2016 tax year shows that, although a slow recovery in real estate values continues, the recovery is uneven and incomplete. Because assessments are one part of a complex equation that results in tax bills for taxpayers and tax collections for taxing districts, these trends are important to keep in mind as administrators and elected officials discuss and evaluate the different dimensions of school finance and property taxes.

We have also compiled assessment data by township so that you can analyze the trends on a more local level. Seven years after Cook County revised assessment levels and eight years after the Great Recession, not a single suburban township has seen a full recovery in its total assessed value.

The most pronounced effect of recent assessment trends is higher tax rates. However, higher tax rates do not necessarily correspond with more money for local taxing agencies. While property tax levies may be growing at or slightly above the rate of inflation, individual tax bills can increase or decrease much more than inflation due to a property's assessed value in relation to the assessments of neighboring properties. It is important for the public to understand that tax rates and tax bills are not simply the result of the property tax levy.

Finally, commercial and industrial property tax assessment appeals at the Illinois Property Tax Appeal Board (PTAB) or in circuit court should not be underestimated. While residential property has the most assessed value, it also has the largest number of properties. The average assessed value of a residential property in Cook County was \$22,951, which corresponds with a market value of \$229,517. Meanwhile, the average assessed value of commercial and industrial property was \$200,478, which translates to a market value of \$800,915. Thus, although numerous, residential property on average has substantially less assessed value at stake if the property taxes are appealed. On the other hand, a single commercial or industrial property with significantly greater assessed value can have a dramatic impact on a taxing agency's levy if it appeals its assessment and obtains a large refund.

FLORIDA - Donald Trump sues over taxable value of Jupiter golf club

How much is the Trump National Golf Club in Jupiter worth? The answer is as complicated and contradictory as the property's famous owner.

President Donald Trump's financial disclosures in 2016 and 2017 list the value of Trump National Golf Club in Jupiter as "over \$50 million." But in an ongoing lawsuit against the Palm Beach County Property Appraiser, Trump insists the value "should be no more than" \$5 million.

In what has become an annual rite of summer, Trump National Golf Club in Jupiter this week sued the Palm Beach County Property Appraiser and the Florida Department of Revenue concerning the taxable value of the 213-acre property.

Jupiter Golf Club LLC, owner of the course, filed suit against Property Appraiser Dorothy Jacks, Palm Beach County Tax Collector Anne Gannon and the head of the Florida Department of Revenue. The complaint doesn't say how much the property is worth, but it does contest the property appraiser's estimate of \$18.4 million.

Each July since 2014, Trump has sued the property appraiser to contest the valuation of the course. In the original 2014 suit, Trump said the taxable value of \$25 million far overstated the golf club's true worth.

In that suit, Trump said he paid just \$5 million for the then-troubled course in 2012. An attorney representing the property appraiser's office declined to comment. An attorney representing Trump didn't respond to a request for comment.

A commercial property appraisal gauges the value of the real estate underlying a business, but it doesn't reflect the full value of an operation such as Trump's golf club.

The property appraiser's latest estimate values Trump National Golf Club at \$18.4 million. Based on that valuation, his annual tax bill would be \$383,171.

The property-tax rate on the golf course is about 2 percent, so each \$1 million reduction in taxable value saves Trump about \$20,000 in annual property taxes.

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Since his election in November, Trump frequently has played at the course, and in February Japanese Prime Minister Shinzo Abe joined Trump there.

It's not unusual for property owners to dispute tax valuations, and Trump has proven a particularly litigious businessman. However, it is unusual for a sitting president to be locked in a legal battle with local authorities.

Trump's Jupiter property has been the source of no shortage of legal entanglements. In February, a federal judge ordered Trump to repay \$5.8 million in deposits he improperly pocketed from former members.

CALIFORNIA - County assessment roll reaches \$450 billion

Santa Clara County Assessor Larry Stone reported that the annual assessment roll reached \$450 billion, a 7.37 percent increase over the previous year.

The assessment roll reflects the total net assessed value of all real and business property in the county as of Jan. 1.

The growth in the assessment roll this year is due primarily to significant new construction, changes in ownership, growth in business property, the 2 percent increase pursuant to Proposition 13 and value restorations of properties that previously received a temporary reduction (Proposition 8). The assessment roll also contains the value of business personal property.

"Silicon Valley's real estate economy is stabilizing," Stone said. "Santa Clara County has had six consecutive years of job gains, reaching a 4.1 percent rate of growth – better than the Bay Area overall at 3.3 percent, and the state at ... 2.6 percent."

In 2016, Stone said, layoffs by technology companies surged 21 percent, contributing to a flattening of the rate of growth in assessed values year-over-year. Nevertheless, he added, Silicon Valley has experienced more than six years of positive office development and leasing.

"Even better," Stone said, "the current economic cycle is nothing like the dot-com boom in the late 1990s, in which real estate development was largely speculative. ... Tenants leased more space than they needed, expecting growth that never occurred. Today, well-established companies like Google, Apple and Samsung with real earnings and profits, are acquiring land and buildings, favoring ownership over long-term leases."

Similarly, in 2016, the residential sector, both multifamily and single family, continued to perform strongly. Homes were staying on the market longer, and multiple offers and sales above the asking price were declining. Yet in the second quarter, home prices and sales surged again, up 115 percent from a year earlier.

The major beneficiaries of property-tax revenue are California's public schools and community colleges. Fifty-one percent of local property-tax revenue generated in Santa Clara County goes to fund public education.

ASSESSMENT REVIEWS

The Assessor's Office mailed the annual assessment notice to 488,292 property owners reporting each property's 2017-2018 assessed value. The notice serves as the basis for the property tax bill mailed in the fall.

Property owners who disagree with the assessed value printed on their notice are encouraged to take advantage of an online tool enabling property owners to review the sale of comparable properties the assessor used to determine their assessment. An interactive service modeled after online banking, the "opt-in tool" enables taxpayers to securely receive assessment notices and connect with the Assessor's Office electronically rather than by mail, telephone or in person.

Property owners who can demonstrate that their assessed value is higher than the market value of their property can request an informal review of their assessment. The annual notice outlines the process for filing a formal assessment appeal by the Sept. 15 deadline. There is no longer a fee to file an assessment appeal.

"Property owners who disagree with the assessed value should not wait for the tax bill before filing an appeal, as the tax bill is mailed by the tax collector after the assessment appeal filing deadline," Stone said.

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CALIFORNIA - Despite Proposition 13, California property tax revenue has soared

Much has been said and written – mostly negatively – about the effects of Proposition 13, California’s iconic law limiting property taxes.

Its critics say that Proposition 13, which restricts taxes to 1 percent of property values and caps increases in those values to 2 percent a year, has starved schools and local governments of vital revenue.

However, the latest data on homes, farms and commercial and industrial property, compiled by county property assessors, tell a much different story.

Assessors completed their 2017-18 rolls of taxable property this month and are reporting about a 5 percent statewide gain to approximately \$5.75 trillion – yes, that’s trillion with a “t” – in taxable value. That huge figure will translate into at least \$65 billion in property taxes, including levies to repay bonds, which are exempt from the 1 percent limit.

Not surprisingly, the highest gains are being recorded in the San Francisco Bay Area, thanks to its red-hot economy and property markets, topped by a nearly 11 percent gain in San Francisco itself.

The most eye-popping number, however, is the immense growth in property tax revenue – well over 50 percent during the last decade alone and about 1,000 percent since 1978, when Proposition 13 was overwhelmingly passed by voters.

The Legislature’s budget analyst, Mac Taylor, points out that “the property tax has grown faster than the economy” since then.

“Personal income in California – an approximate measure of the size of the state’s economy – has grown at an average annual rate of 6.3 percent since 1979,” Taylor’s 2012 report says. “Over the same period, revenue from the 1 percent property tax rate has grown at an average annual rate of 7.3 percent.”

How is that possible?

While Proposition 13 limits taxes on any particular piece of property as long as it remains under the same ownership, taxable values are upgraded when it changes hands. That, along with ever-rising market values, accounts for much of the steady increase.

Another big factor is new construction, both residential and commercial, added to the tax rolls as population increases. However it happens, property tax revenue keeps growing, currently by about \$3 billion each year.

Proposition 13’s critics – public employee unions and their political allies, mostly – have yearned for decades to repeal or modify it.

Repeal would be a political impossibility; it remains very popular with voters, most of whom are homeowners and benefit from its limits. Critics, therefore, have tried to gain traction for a “split roll” that would eliminate the limits for commercial property, arguing that it changes hands less often than homes and its owners are getting an undeserved tax break.

They’ve also sought to change laws governing change of ownership, claiming – with some justification – that they allow property owners to manipulate the system and avoid tax value upgrades by creative structuring of deals.

One could argue, however, that Proposition 13 staved off what could have been a much larger tax revolt.

Had it not been enacted, and were local officials today using the same uncapped assessment practices and still taxing at the same rate as they did before 1978, property taxes would be three times as high, or about \$200 billion a year.

That would have been politically unsustainable, so some limit on property tax growth was inevitable. The Legislature had plenty of warning in the 1970s that a tax revolt was coming and ignored it, thus giving Howard Jarvis and other Proposition 13 proponents an opening.

The Proposition 13 debate will continue, but arguing that it has undermined vital tax revenue is disingenuous, as the latest data prove.

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ILLINOIS - Bar association sues state over prosecution of lawyers in property tax cases

The Illinois State Bar Association is suing the state Department of Financial and Professional Regulation over the agency's prosecution of two lawyers involved in challenging real estate tax assessments.

The department, according to the lawsuit, is taking action against the lawyers, claiming that submitting legal briefs in support of the assessed values of their clients' properties was tantamount to making real estate appraisals without a license, which state law prohibits.

But the bar association, in a lawsuit filed Monday in Cook County Circuit Court, argues that such activities are common for property tax lawyers, don't constitute the actions of an appraiser and don't violate the state law dealing with licensing for appraisers.

Illinois property owners frequently hire attorneys to challenge real estate assessments in an effort to get their tax bills lowered.

"All the lawyers did was advocate on behalf of their clients" by presenting relevant information, "much of it publicly available, urging a government body to reduce the assessed value of their clients' properties," the lawsuit says. "Advocacy of clients on behalf of their clients does not constitute the development or rendering of an appraisal."

Through the lawsuit, the bar association says it's trying to prevent the department from prosecuting licensed attorneys for similar activities.

The bar association has 30,000 members, of which about 400 belong to a state and local tax section.

The bar association's lawsuit outlines the plights of two lawyers, G. Terence Nader and David Bass. The department filed complaints against both men in April, alleging they made real estate appraisals without a license.

"Our state laws ... expressly allow property owners to prove the true value of their property," Nader, who isn't a party to the lawsuit, wrote Tuesday in an email. "As their lawyer, I am just speaking for them. I am doing the same work that hundreds of other lawyers are doing right now and that generations of lawyers have done before me."

Bass couldn't be reached immediately Tuesday for comment.

The Illinois Department of Financial and Professional Regulation is reviewing the matter, spokesman Terry Horstman said.

The department alleged Nader made a real estate appraisal without a license when he filed a brief with a property tax appeal board that "contained an analysis of comparable sales and opinion of value for the subject property."

The bar association said Nader and Bass were hired to be advocates for clients in seeking reductions for the assessed value of properties. Nader, for example, used publicly available data for seven comparable properties, the association's lawsuit said.

PENNSYLVANIA - Targeting eyesores

There is a bunch of blighters on New Castle City Council.

Not in the British sense of the word, which refers to "a disliked or contemptible person."

Then again, we suppose that depends on your politics.

We, however, are talking about the Blighted Property Tax Force, a panel appointed by Mayor Anthony Mastrangelo that is working with representatives of the Housing Alliance of Pennsylvania to address city eyesores.

The group recently convened the first of four scheduled gatherings with consultants Chris Gulotta and Diana Kerr, effectively completing Step No. 1 in Gulotta's guidelines: "get the people interested in eliminating the blight problem into one room ..."

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Step No. 2, Gulotta said, is to determine if buildings should be demolished or repurposed, depending on what is best to preserve the city's tax base.

We see this as a potentially much more difficult proceeding.

Some buildings ripe for demolition are obvious — abandoned, boarded up homes adrift in a sea of two-foot-high grass, for example. Others are more difficult calls, such as structures that have long stood empty, but which have owners who keep their taxes paid and who perform at least minimal maintenance. Blight, or simply as-yet untapped potential?

There is also historical value to be considered, as we've seen debated in recent downtown demolitions. Is a building historical simply because it's old? Alternately, does advanced age alone mean it must come down? It is our hope that such buildings are considered on a case-by-case basis, and not lined up in front of single broom tasked with sweeping them away.

Once such decisions are made, Mastrangelo said, the city is planning on a land bank to get blight removal going in earnest. Established by Act 153 in 2012, land banks, according to the state housing alliance, have the powers to: "a) acquire tax delinquent property at a judicial sale without competitive bidding; b) discharge tax liens; c) hold property tax-free; d) share up to 50% of the real property taxes for 5 years after conveyance of land-bank owned property; d) file an expedited quiet title action and consolidate multiple properties into a single complaint to quiet title; and e) convey properties without a redevelopment agreement."

As such, the alliance says, land banks "have 'all powers necessary' to repurpose vacant and abandoned property."

Still, there are other options available as well, thanks to recent state legislation. The list, provided by state Sen. David Argall, chairman of the Pennsylvania Blight Task Force, include:

- Act 135, which allows the appointment of a third-party conservator through the courts to rehab or demolish a property when the owner refuses to do so
- Act 90, which allows municipalities to collect costs related to code violations by filing judgments against property owners, not just liens against properties; to deny permits and licenses to applicants delinquent on taxes or who remain in serious code violation; and to extradite property owners who live outside the state who are subject to municipal ordinance prosecutions.
- Act 34, which reduced the number of housing code convictions needed to criminally prosecute a property owner from four to two.
- Act 152, which gives counties the authority to levy a fee of up to \$15 through the Recorder of Deeds for each deed and mortgage registered, with the money to be used toward a demolition program (proposed earlier this year by Commissioner Bob Del Signore).

It's good to see local officials getting serious about blight, but if there were simple answers to the problem, local eyesores would have disappeared a long time ago. We encourage council and its consultants to establish a multi-pronged strategy, using as many of the tools made available by the state as make sense for New Castle, and once set in motion, to avoid tossing out the city's pearls with its shells.

NEW YORK - Yonkers considering 'voluntary' property tax for nonprofit organizations

City officials are considering sending "voluntary" property tax bills to nonprofit organizations like hospitals, colleges and religious institutions.

Mayor Mike Spano first proposed the idea during his State of the City Address, and now the proposal is under review in a City Council committee.

The concept consists of sending property tax bills to any tax-exempt organization in the city that has property worth more than \$1 million. The property tax bill would ask the owner to pay 25 percent of the property's assessed value.

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"We appreciate having a beautiful college like Sarah Lawrence College in the city," Spano said. "They occupy 40 acres of our community, some of the most valuable pieces of property, over half a billion dollars in value, but we don't get any revenues for it, so we're just looking for something to give the taxpayers a little bit of relief."

As a tax-exempt institution, Sarah Lawrence College doesn't have to pay property taxes, but Yonkers' police and fire departments are still required to serve the college's students and staff.

When asked on Monday if Sarah Lawrence College would pay a voluntary property tax, spokeswoman Judith Schwartzstein said the college had no comment.

Besides Sarah Lawrence College, other nonprofits that are large property owners in Yonkers include Andrus, St. John's Riverside Hospital and St. Joseph's Seminary, which is run by the Archdiocese of New York.

St. John's representative said the hospital could not immediately respond to a request for comment, while Andrus and the archdiocese did not respond.

Last month, a proposed local law amending the city's tax code to enable a voluntary payment program for tax-exempt institutions appeared on the City Council's Legislation and Codes Committee agenda, but that meeting was canceled and a new meeting date has not been announced.

Spano said Yonkers wouldn't be the only city that gets voluntary payments from large, nonprofit organizations. Spano cited Syracuse as an example.

Last year, the Associated Press reported that Syracuse officials announced a deal with Syracuse University that would have the school contribute \$7 million over five years to offset the university's use of city services.

Spano also cited Boston, which has sought payments from colleges and universities within its city limits. Last year the Boston Globe reported that the majority of the colleges did not pay the full amounts requested to help cover the cost of municipal services.

Spano said the city is not tied to the proposed 25 percent of assessed value. An institution could choose to pay 10 percent.

"We'll take it," Spano said. "We're not going to say no."

MASSACHUSETTS - Our Lady of La Salette Shrine sues City of Attleboro

Our Lady of La Salette Shrine in Attleboro on Monday filed a 27-page complaint in Bristol County Superior Court against the City of Attleboro over property tax issues.

Leaders at Our Lady of La Salette Shrine in Attleboro say they are outraged over the lack of response from the City of Attleboro over its quarterly tax bill and property tax money owed back to the shrine and now it's taking its fight to Bristol County Superior Court.

"State law provides a judicial remedy to victims of illegal taxation," the Rev. Cyriac Mattathilanickal said. "What La Salette seeks of the City is no more than what the City demands of its citizens every day: good faith compliance with the law. Enough is enough."

La Salette told the NBC 10 I-Team recently that the city's Board of Assessors is not complying with a recent decision by the Supreme Judicial Court and that inaction will take a toll on taxpayer dollars, according to the shrine.

Mattathilanickal told the NBC 10 I-Team that he is upset over two things: the city's lack of response in returning \$350,000 owed to the shrine for taxes paid 2013-2016 and the city's denial of the shrine's January 30 application for property tax abatement for taxes due for the fourth quarter.

There's about a \$100,000 difference in what the shrine and assessor say is owed back to the shrine, according to Mattathilanickal.

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"It's deeply frustrating," he added. "The taxes are illegally imposed."

Michael Siddall, the attorney representing the Board of Assessors, said he hasn't had an opportunity to review the complaint, but did offer some comment.

"What I can tell you is that we received the decision from the Supreme Judicial Court and as a result of that decision we prepared a spread sheet and calculated the amount," he told the NBC 10 I-Team.

Siddall said he and the board of assessors ran the numbers for the welcome center, the maintenance building (both of which were exempt from taxes) and then ran the numbers for a safe house on the property and came up with an amount.

"They say we are wrong, but I've asked them to point out how," Siddall said. "We are saying we have a different reading and why don't we follow what the SJC said. I said lets go back to the Appellate Tax Board and present the issue to them . Instead they filed a whole new case with Bristol County Superior Court."

The longer the battle continues, the more expensive it will be for taxpayers, according to Mattatilanickal.

"When the city is dragging its feet, the city is wasting taxpayer money."

And that's not all. The shrine is also asking the court to force the city to pay \$70,000 owed back to the shrine for the 2017 tax year, as well as interest and attorney fees.

"The Supreme Judicial Court's decision clearly established that the imposition of taxes on the shrine in 2017 was in error and barred by state law," reads the complaint.

"They are taxing the excess land...we've asked them to show us on a map where that excess land is," Mattatilanickal told the NBC 10 I-Team. "They said they are allowed to tax on excess land but we cannot figure out what excess land they are talking about."

Siddall said there's approximately 11 acres of land around the safehouse that still belongs to the shrine and is not exempt from property taxes. He also said he's offered to explain each property card with the shrine."

"I understand that it's confusing and I'm happy to go through card by card, but instead they decided to file a complaint," Siddall said.

Mattatilanickal, however, said he doesn't believe the assessor and the Board of Assessors "is willing to settle this at all."

Asked if the Attleboro City Council or Mayor Kevin Dumas has stepped in to attempt to settle the battle, Mattatilanickal said: "Absolutely not. We have not seen any attempt to settle the issue at all."

As for the city, Siddall said they will not go back to the Appellate Tax Board.

CALIFORNIA - The most taxed local property? Qualcomm Campus

What's the highest taxed commercial property in San Diego? Qualcomm's campus in Sorrento Mesa, says the county assessor's office.

Jeff Olson, a division chief in assessment services, said Qualcomm's 15 parcels of land are valued at nearly \$1.4 billion and that generates a tax bill of \$18.5 million.

Qualcomm property's worth is one of many items that helped boost overall county property valuation beyond the half-trillion mark for the first time. The \$512.3 billion total was 6.1 percent or \$29.2 billion more than last year and is expected to generate about \$4.9 billion in property taxes for cities, schools, special districts and the county government.

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County Assessor Ernest Dronenburg said while the total rose more than 6 percent, four out of five taxpayers will see their property taxes rise no more than 2 percent, the limit set by the 1978 statewide tax initiative known as Proposition 13. Properties are never fully reassessed at their market value until they change hands.

Dronenburg said 2017 is the fifth straight year of property valuation increase.

“The volume of change in ownership and construction has increased to levels not seen since 2009,” Dronenburg said, referring to the year of the Great Recession, when values plummeted. “This is a sign that the public is encouraged by the economy and the market. Home builders are also becoming more active, creating nearly 4,000 subdivision lots in 2016. This is the first step in the development process and represented a 230 percent increase year over year.”

The improving economy and real estate market also prompted the upward assessment of properties whose values were reduced during the recession. Dronenburg said 73,100 parcels of land had their values partially restored to their pre-recession levels and 11,600 were fully restored.

The top 10 commercial properties, carrying a combined assessed valuation of \$6.7 billion, included four hospitals, three hotels, two shopping centers and the Qualcomm office complex. They paid a cumulative property tax of \$57 million, Olson said, just 1.3 percent of the county total.

The hospitals might have contributed even more but for an exemption they receive under state law. For example, Sharp Memorial Hospital is valued at \$425 million but \$408 million is exempt, Olson said. That reduces the Proposition 13 tax limit, set at no more than 1 percent plus bonded indebtedness, from a theoretical \$4.3 million to only \$211,006. The taxable properties include physicians’ offices and other non-hospital activities.

Here’s the countdown:

(Property value is first. The property tax bill is in parentheses).

- Qualcomm, \$1.4 billion (\$18.5 million)
- Manchester Grand Hyatt Hotel, \$756.1million (\$9 million)
- Hotel del Coronado, \$693.7 million (\$6.5 million)
- Scripps Hospital, \$675 million (\$582,794)
- Kaiser Hospital-San Diego Medical Center, \$667.7 million (\$5.8 million)
- Westfield UTC, \$584.3 million (\$4.1 million)
- Fashion Valley, \$525.7 million (\$6.1 million)
- Hilton Bayfront Hotel, \$486.3 million (\$5.6 million)
- Rady Children's Hospital, \$463.2 million (\$574,692)
- Sharp Memorial Hospital, \$425.8 million (\$206,565)

Some of the San Diego properties were included in a recent national compilation of top taxed properties. CommercialCafe said among the top 100 taxed commercial properties, 82 are in New York City. The General Motors Building ranked first with a tax bill of \$71.7 million, followed by the 8,759-apartment Stuyvestant Town project, also in New York City that sold for \$5.3 billion in 2015 and carries a tax bill of \$60.5 million, according TRData.

San Diego County tax trivia

National City had the highest increase in assessed value among the 18 cities in the county — up 8.5 percent to \$4.1 billion, followed by Imperial Beach, up 8.2 percent to \$2 billion, and Santee, also up 8.2 percent to \$5.9 billion.

San Diego city, as usual, had the highest valuation, \$245.5 billion, up 6.3 percent, followed Carlsbad, \$32 billion, up 5.1 percent, and Chula Vista, \$28.4 billion, up 6 percent. The lowest increase among the cities was Poway, up 3.8 percent to \$10.4 billion. The unincorporated area valuation was \$70.7 billion, up 5.1 percent.

The assessment roll consists of 993,821 real estate parcels, 57,971 businesses, 12,651 boats and 1,636 aircraft.

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During 2016, there were 154,600 recorded documents, 63,500 reassessed properties that changed ownership, 12,900 new construction values and 129,000 businesses canvassed.

More information is available at the assessor's website, sdarcc.com, which includes a new research tool, "values characteristics and maps."

WISCONSIN - Homeowners Don't Have to Let Assessors in to Challenge Tax

The Wisconsin Supreme Court says a law requiring homeowners to let assessors inside as a condition of challenging their property taxes is unconstitutional as applied to a pair of Racine County property owners.

Wisconsin homeowners don't have to let assessors inside as a condition for challenging their property taxes, the state Supreme Court ruled Friday.

The court said in a 5-2 decision that such visits amount to unreasonable searches and that assessors need to get warrants if they can't obtain the homeowners' consent.

The ruling involves Vincent Milewski and Morganne MacDonald, who own a home in the Town of Dover in Racine County. According to court documents, they tried to challenge their 2013 property tax assessment in front of a town review board.

The board refused to hear the challenge because Milewski and MacDonald wouldn't let an assessor inside their home. Under state law, people who refuse an assessor's request to view their property can't contest the assessment to local review boards.

Milewski and MacDonald sued. A judge dismissed the lawsuit and a state appellate court upheld his decision. The state Supreme Court reversed that ruling.

Writing for the majority, Justice Dan Kelly said Milewski and MacDonald were faced with a difficult decision: relinquish their constitutional right to be free of unreasonable searches so they could challenge the assessment or exercise their rights and forfeit their ability to contest the assessment.

Kelly said an assessors' visit without consent is a search as defined in the U.S. Constitution's Fourth Amendment, which protects people from unreasonable searches and seizures. The town failed to show how assessing taxes is such a special need that the Fourth Amendment doesn't apply, which means assessors must obtain search warrants to enter without consent, he wrote. Assessors can use other means to gather information about the property, he said. Milewski and MacDonald can challenge the assessment without an interior inspection, he concluded.

He said the law isn't unconstitutional on its face. But it can't be read to require a property viewing that violates the Fourth Amendment in order to allow a challenge, he wrote.

The town's attorney, Jason Gehring, didn't immediately respond to a voicemail seeking comment.

The court's conservative-leaning majority handed down the decision. Shirley Abrahamson and Ann Walsh Bradley, the only two liberal-leaning justices, dissented.

Abrahamson wrote in a joint dissent with Bradley that such choices are common in the law and are seen as constitutionally valid. She also complained the majority opinion is overly complex and intricate — even though her dissent goes on for 47 pages compared with Kelly's 53 pages — and doesn't say what should happen next.

The Wisconsin Institute for Law and Liberty, a conservative law firm that represents Milewski and MacDonald, issued a statement calling the decision "a victory for private property rights."

The Wisconsin Realtors Association, the state Department of Justice and the Institute of Justice, a law firm specializing in constitutional protections, all filed friend-of-the-court briefs urging the Supreme Court to strike down the law.

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NEW YORK - Who pays the highest property taxes in New York?

New York state has some of the highest property taxes in the country. But where in the state are property taxes highest?

Assemblyman Ray Walter, R-Amherst, says Western New York ranks high.

"Western New Yorkers pay some of the highest property taxes in the state," Walter said in a recent press release about Republican efforts to replace Obamacare. He supports a part of a congressional bill designed to reduce property taxes in New York state by shifting Medicaid costs from counties to the state.

Walter said he was talking about property taxes as a percent of home value in Western New York. He defines the region as the eight counties west of the Finger Lakes: Erie, Niagara, Chautauqua, Allegany, Cattaraugus, Orleans, Wyoming and Genesee counties.

"It's off the charts as a percentage of home value," Walter told PolitiFact New York. "In real dollars it's not as high just because our home values are not as high as other places in the state."

Is Walter right that Western New York has some of the highest property taxes in the state?

Percent of home value

U.S. Census Bureau data shows how property taxes compared with home values in each county in 2015, the latest figures.

It's a better apples-to-apples comparison because some counties have higher home values but similar property tax bills. The home value in Brooklyn is more than triple that of Sullivan County, for example, but the property tax bills are within a few hundred dollars of each other.

All eight counties in Western New York rank among the 18 highest counties in the state for property taxes as a percent of home value.

- Orleans County ranks first out of the state's 62 counties. Its median property tax of \$3,055 is 3.35 percent of its \$91,300 median home value.
- Allegany County ranks second. The \$2,320 median property tax bill is 3.3 percent of the \$70,300 median home value.
- Erie County ranks lowest in the region, but 18th highest in the state. Its median property tax bill is \$3,499, which is 2.69 percent of its median home value of \$130,000.

The data is only reported for owner-occupied housing units. It does not include property taxes on businesses or rented units.

Property taxes in dollars

The ten counties with the highest median property tax in dollar amounts are in New York City, the lower Hudson Valley and on Long Island. Western New York counties are lower in this category. Four of them rank in the bottom half.

- Erie County has the highest property tax in the region. The county ranks 21st in the state.
- Niagara County, where the median property tax bill is \$3,255, is second highest in the region but 26th in the state.
- Allegany County has the lowest median property tax in dollars in Western New York. Only five other counties in the state are lower.

Three counties tie for highest property taxes in the state — and the country. Nassau, Rockland, and Westchester counties each have median property tax bills that exceed \$10,000. That's the highest amount in the country as well.

The Census Bureau does not report exact dollar amounts when the median tax exceeds \$10,000.

Percent of income

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Property taxes can also be measured as a share of median household income.

The eight counties in Western New York rank in the middle in this category.

- Wyoming County, where the tax bill is \$2,871, is lowest in the region. Residents spend 5.29 percent of the median income of \$52,564 on property taxes. Fifteen counties have lower property tax bills as a percent of median resident income.
- Erie County is again highest in the region. Residents there pay 6.83 percent of the median income of \$51,247 toward property taxes. Twenty-one counties are higher.

Nassau, Rockland, and Westchester counties tie for first in this category. At least ten percent of the median income in each is spent on property taxes.

Our ruling

Walter said "Western New Yorkers pay some of the highest property taxes in the state."

His statement might come as a surprise to homeowners on Long Island and other counties near New York City, where median property tax bills exceed \$10,000. To them, Erie County's median property tax bill of \$3,499 doesn't look too high.

So, no, Western New Yorkers do not pay some of the highest property taxes in the state.

But Western New Yorkers shoulder a heavier burden paying the property tax.

Walter said he was talking about property taxes as a percent of home value. And in that sense, he's right about the tax. Two Western New York counties lead the state in this category and all eight counties in the region are among the top third.

We rate his claim Half True.

NEW JERSEY - No Property Tax Exemption for Disabled Veteran Whose Injuries Did Not Occur "In a Theater of Operation"

Fisher v. City of Millville, N.J. Super. (App. Div. 2017).

Article VIII, section 1, paragraph 3 of the New Jersey Constitution allows the Legislature to enact legislation that grants tax exemptions to veterans.

The Legislature has done that, providing (as one available option) a property tax exemption to honorably discharged veterans who have been declared disabled as a result of injury in "active service in time of war."

Plaintiff in this case sought that exemption. She had been injured in 2002 in a training exercise at Fort Wood in Missouri. Later, she was transferred to Fort Stewart, Georgia, as part of a unit that was to deploy to Afghanistan as part of Operation Enduring Freedom. Due to her injuries, however, plaintiff did not deploy. Instead, she remained behind, performing support duties. She eventually got an honorable discharge and was declared 100% disabled.

The defendant City denied plaintiff's request for a tax exemption. The Tax Court affirmed, ruling on cross-motions for summary judgment on which the parties submitted a joint statement of material facts. Today, in an opinion by Judge Lihotz (an alumna of the Tax Court), the Appellate Division affirmed.

Since the facts were all stipulated, the only issue was one of statutory interpretation, regarding whether plaintiff's injuries were sustained in "active service in time of war." Thus, as Judge Lihotz observed, the de novo standard of review applied. Plaintiff had a special hurdle to overcome, since "taxation is the rule, and the plaintiff bears the burden of proving an exemption."

N.J.S.A. 54:4-8.10 defines lists various wars and conflicts that qualify as "time of war." Operation Enduring Freedom was one of those. But the statute further required service "in a theater of operation and in direct support of that operation," and that the injury have been sustained "while engaged in such service." Judge Lihotz ruled that "[t]he statute, by its clear terms, requires

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service in the specified geographic area,” and that the geographic area limitation was “purposeful” on the part of the Legislature.

Plaintiff also argued that because her unit was stationed in a combat zone, and her service was in direct support of that unit, “she was exposed to the experiences of war and, being disabled as a consequence of such service, as a matter of policy,” should receive the tax exemption. Judge Lihotz disagreed. Noting that tax exemptions are strictly construed because of the policy that all property should bear its fair share of taxation, Judge Lihotz held that the Legislature intended to make the exemption turn “on the exposure of the service member to the harms of war, an experience not visited upon plaintiff.”

CALIFORNIA - Massive shakeup of Board of Equalization under way

One of the key provisions contained in the new budget that Gov. Jerry Brown signed into law last week was implementation of AB 102, the Taxpayer Transparency and Fairness Act of 2017. The act effectively dismantles the deeply troubled State Board of Equalization (BOE), which has been on peoples’ minds since the Department of Finance issued its March 30, 2017 Final Report describing the board’s problems, which we detailed at the time.

The BOE, established in 1879 by constitutional amendment, was responsible for:

- Administering various tax and fee programs, including the sales and use tax.
- Adopting rules and regulations to clarify tax laws.
- Acting as an appellate body for the review of property, business and income tax assessments.
- Assessing and allocating the property tax values of railroads and specified utilities.
- Overseeing the property tax assessment practices of all 58 counties in California.

In 2017-18, the BOE budget included \$670.7 million in proposed expenditures, and nearly 5,000 authorized positions with over 600 vacancies. The BOE collects over \$60 billion, more than 30 percent of all state revenues

Chief among the BOE’s problems were its unfair tax administration and appeals practices, and violations of state laws pertaining to personnel management. The Taxpayer Transparency and Fairness Act’s three reforms are the following:

- Removal of the BOE’s elected members from oversight of the day-to-day operations of the organization.
- Transfer of tax appeal cases away from politicians to independent judges who are experts in tax law.
- Establishment of the Department of Tax and Fee Administration to manage the BOE's current non-constitutional tax and fee administration responsibilities.

Pursuant to these reforms, the final Assembly Floor Analysis delineates the statutory changes that took effect on July 1, 2017. In that document, lawmakers set forth the numerous details explaining their efforts, including declaring at the outset that “taxpayers are entitled to a tax administration and appeals process that is fair, transparent, consistent, equitable, and impartial[,] [t]hat taxpayers deserve to have appeals considered by and independent, objective panel with sufficient expertise and a sole focus on tax issues,” and it is their intention “that any appeals forum resolve matters on appeal on a timely basis, for taxpayers and tax administration agencies alike.”

To accomplish lawmakers’ goals, the Taxpayer Transparency and Fairness Act establishes the new California Department of Tax and Fee Administration, within the Government Operations Agency. It also creates a new appellate body, the Office of Tax Appeals (OTA), within state government.

DEPARTMENT OF TAX AND FEE ADMINISTRATION

With respect to the former, it is the governor’s duty to appoint the director, subject to Senate confirmation. The director is “solely responsible for selecting persons for career executive assignment positions and other non-civil service managers.” The governor must also appoint a chief deputy director, and chief counsel.

As for the transition itself:

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- For all of the BOE's duties to which the department succeeds, the department is vested with, all duties, powers, and responsibilities of the BOE.
- Cases in which the BOE was a party are to continue in the name of the department.
- Employees engaged in functions that transferred from the BOE to the department are to retain their status, positions, and rights.

The Taxpayer Transparency and Fairness Act explicitly prohibits BOE members from engaging in certain activities, such that:

- No BOE board member shall be involved in any budget change proposal for the BOE or the department.
- Nor shall the BOE interfere with, or influence, the process of the board's or the department's legislative analyses, revenue analyses, or any other form of technical assistance requested by the governor or the legislature.
- No board member may represent a person before the BOE before one year after the expiration of their term or after separation from the BOE.
- No staff of a Board member may represent a person before the BOE before one year after separation from employment with that member.

Accordingly, the BOE's remaining authority is limited to the following:

- The review, equalization, or adjustment of a property tax assessment.
- The measurement of county assessment levels and adjustment of secured local assessment rolls.
- The assessment of pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties, and property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the state, and companies transmitting or selling gas or electricity.
- The assessment of taxes on insurers.
- The assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages in California.
- Adjustment of the rate of the motor vehicle fuel tax for 2018-2019.
- The appointment of an executive director, along with prescription and oversight of his or her duties.

OFFICE OF TAX APPEALS

The other entity that the Taxpayer Transparency and Fairness Act creates, the OTA, is also to be overseen by a director appointed by the governor, and subject to Senate confirmation. As with the Department of Tax and Fee Administration, the governor is to appoint the chief deputy director and chief counsel also.

For the handling of tax appeals, the OTA's director is tasked with designating the three administrative law judges that are to make up the tax appeals panels. Each administrative law judge, bound by the Code of Judicial Ethics, must be a member of the state bar for at least five years immediately preceding his or her designation to tax appeals panel, and have the requisite knowledge and experience.

The OTA is the successor to, and vested with, all the duties, powers, and responsibilities of the BOE as needed to conduct appeal hearings, and will start hearing appeals as of Jan. 1, 2018, in Sacramento, Fresno, and Los Angeles. Written opinions for tax appeal decisions must be issued, in writing, within 100 days of the final decision.

The LATimes characterized the reform effort as a "massive shake-up," the most dramatic in the BOE's history. The article noted that the body is under investigation by California's Department of Justice, and its misdeeds include misdirecting \$350 million of sales taxes.

NEW JERSEY - Jersey City may continue legal fight over canceled revaluation

The city was ordered last year to pay Realty Appraisal Co. roughly \$1 million for halting the 2011 reval.

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Jersey City may ask the New Jersey Supreme Court to hear an appeal of the breach-of-contract case it lost last year over the aborted 2011 property revaluation.

The city's attorneys told the state's highest court last week, in a filing known as a notice of petition for certification, that it may ask it to hear an appeal of the \$1 million judgment in the case ordered by a Hudson County judge in April 2016. The city has until the end of next week to file the necessary paperwork with the state Supreme Court.

Requests for comment from the city and from the attorney for Realty Appraisal Co., the company that filed the breach-of-contract lawsuit, were not returned.

Realty Appraisal was hired in 2011 to perform the long-stalled reval that Mayor Steve Fulop halted soon after he was elected in 2013. The mayor argued that the company was chosen after a corrupt bidding process, and he accused Realty Appraisal of hiring Brian O'Reilly, who had just retired as the city's business administrator, to help it win the \$3.2 million contract.

In April 2016, Hudson County Superior Court Judge Francis B. Schultz ruled in Realty Appraisal's favor, finding that Fulop used the firm's hiring of O'Reilly as an excuse not to proceed with the reval. The process, intended to square every property's assessment on the tax rolls with its true value, is expected to lead to sharp tax hikes in some areas of the Downtown where property values have skyrocketed since the last reval in 1988.

An appellate panel last month dismissed the city's appeal of Schultz's ruling, which ordered the city to pay Realty Appraisal the \$984,511 remaining on its 2011 contract, plus interest and legal fees. It's not clear how much Realty Appraisal's legal fees will be but the city's daily interest tab is \$216.37, starting with Schultz's April 14, 2016 ruling.

The city has since started a new reval with a different company. Property owners are expected to receive their new assessments around Thanksgiving.

MAINE - Brunswick property revaluation is about to get real

New estimated property valuations will be mailed to taxpayers July 18.

The assessments, which taxpayers have the right to appeal, mark the beginning of the end of the town's ongoing property revaluation, which assessors from KRT Appraisal said they hope to complete by mid-August.

The Town Council voted for the revaluation in September 2015, at a cost of \$400,000. The decision was made because of valuation inequities that developed over the 20 years since the town's last revaluation.

The revaluation will redistribute taxes "to create uniformity and fairness," Ken Rogers of KRT told the council via Skype at a June 29 meeting. In other words, some property owners will see their tax bill rise, while others will fall, resulting in a net zero change in revenue for the town.

The council expected at the meeting to preview some of the major trends in shifting values – particularly in the category of single-family homes – although Rogers said the myriad attributes that get calculated into the revaluation formula prevented him from offering a general summary.

"It's so hard to pinpoint on an individual basis," Rogers told Councilor Sarah Brayman, who had asked him to characterize any obvious trends. "There's just too many characteristics that affect that change."

Those characteristics include everything from the location of a home, to dimensions and features, and the conditions of those features, he said. Over the past year, KRT has collected that information through surveys of the interior and exterior of every home in town.

Brunswick real estate is taxed at approximately 70 percent of market value, but after the revaluation, it will be taxed at 100 percent market value. Correspondingly, the town's tax rate will decrease.

For the 2016-2017 fiscal year, the town's tax rate was \$29.35 per \$1,000 of valuation. The new tax rate and valuations will affect the first round of tax bills in fiscal year 2018, due in October.

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In an email Monday, town assessor Cathy Jamison said the mailed revaluation notices will include an estimated tax amount, based on an estimated tax rate.

The final tax rate won't be finalized until after the revaluation wraps up at the end of August; that calculus, Jamison said, also needs to take into account other town revenues, expenses, and state reimbursements.

After they receive their notices – all of which will be public and posted on the town website – taxpayers have until Aug. 11 to appeal or ask questions about their estimated valuation with KRT.

Following that period, Rogers said KRT will synthesize the feedback and send out a second set of notices, indicating any changes; those will likely be sent mid-August, he said.

ILLINOIS - Lifting the Veil on Chicago and Cook County Real Estate Taxes

It seems like politics watchers and the news media like to establish a veil of mystery around Cook County tax assessments. And although it sells papers and conjures an atmosphere of the unknown, the most important thing to know about tax relief in Cook County is the role of market value in assessments and how taxes are calculated.

On June 13, taxing entities announced that tax rates in the City of Chicago would be going up approximately 10 percent. The second installment 2016 tax bills were scheduled to be published around July 1 with a very short payment deadline of Aug. 1, 2017. Those bills will reflect all changes to assessments, as well as the new tax rates.

Tax increases make good headlines, but the increases were not a real surprise. The large anticipated property tax increases arise from a local ordinance designed to recapture a portion of the City of Chicago's and Chicago Public Schools' large budget deficits and pension plan deficits. This local real estate tax increase resulted from the absence any current resolution of the continuing budgetary stalemate between the general assembly and the governor's office in Springfield, Illinois.

The table below illustrates the potential real estate tax increase that could result from the projected 9.3 percent 2016 tax increase from the previous year's tax bills. It addresses a commercial property in Chicago which had a \$10 million assessor's fair market value in 2015, considering the projected 2016 property tax increase of about 10 percent.

Projected Tax Bill: \$10 million commercial property

	2015	2016
Market value	10 million	10 million
x 25 percent assessment ratio		
Assessed value	2.5 million	2.5 million
Equalization factor	2.6685	2.8032
Equalized assessment	\$6,671,250	\$7,008,000
Tax rate	6.867 percent	7.145 percent
Tax bill (increase 9.3 percent)	\$458,114.74	\$500,721.60

News outlets made a splash over the approximate 10 percent increase in the tax rate. However, to satisfy the needs associated with funding police, fire and schools, it is likely that there will be future tax increases over and above that initial 10 percent.

What to do? First, understand that a tax challenge is not surrounded by intrigue. Individuals can very easily appeal their assessments to the assessor. Taxpayers that present good facts and arguments following sound appraisal theory will often find

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some tax relief. Property owners can take a further appeal to the board of review and beyond. However, at the board level, corporate taxpayers require an attorney.

There are a number of practical arguments to consider. One is to pursue an argument based solely on the assessment as compared to the actual market value of the property, considering the contract rents in place.

Another is taking what appears to be the opposite approach. When arguing about uniformity, taxpayers look toward the general market. In short, assessments should reflect current market rents and not necessarily the actual contract rent at the subject property.

Taxpayers should also consider market occupancy with an eye toward the limitations of the subject property. These arguments work best when submitted to the board along with reliable appraisal evidence as supporting material. From a practical standpoint, a uniformity argument hits close to the response that most taxpayers want, which is to be taxed in a similar manner as their neighbors or competitors in similarly situated properties.

Most assessments are sub-arguments to the income, sales and cost approaches to determining value. The assessors and boards heavily favor the income approach for commercial properties.

Thus by understanding the limitations of the subject property, the taxpayer can argue his own case or be better able to assist tax professionals in establishing the most accurate assessment for the property. There are no smoke and mirrors required, just sound judgment.

INDIANA - Fix may be coming for Dark Box issue

On the third floor of the Howard County Administrative Center, a waiting game plays out within the Center Township and Howard County assessors' offices.

Occasionally, a call comes in from tax representatives requesting information for local businesses. Center Township Assessor Sheila Pullen worries these calls could result in retail stores requesting assessments under the "dark box" methodology, which is establishing a property's value as if it were empty and unused as opposed to in-use and generating income. The waiting game at this point leaves the assessor wondering how many businesses will utilize the dark box assessment method and, more importantly, how large the corresponding cut in tax revenue will be.

The answer to that potentially million-dollar question may come by July 17, the deadline for appeals to be filed on assessments.

Ahead of that, it's worth considering that the results potentially could be catastrophic to local government operations and the services provided to the community.

The reason being, said Pullen, is because the dark box assessment method potentially could see wider use. In April the Indiana Supreme Court declined to hear the case of Howard County Assessor v. Kohl's, a tax assessment appeal where the county assessor battled to keep the retailer from utilizing the methodology viewed by government officials as undervaluing the store property, the decision reverted to a previous court's decision siding with the retailer. Meaning industrial properties may decide to use the dark box method.

"Someone like a big industrial, if they just file on their real estate, it's not going to be as bad as on the personal property because their personal property is a lot more valuable than real estate," said Pullen. "For the first time this year I have had one of my commercial filers put some obsolescence on their equipment because of the market. I don't want to name them yet, but it's happened in some other counties too. I sent them notice and raised it back up, but I'm probably looking at an appeal on that. Once they start on the real estate, the next thing they'll do is start on the personal property."

This outcome has the potential to be devastating to Howard County.

For example, should Fiat-Chrysler Automobiles decide to utilize the dark box methodology, millions in tax revenue could be lost if the evaluation is applied to the company's local personal property. This situation is, of course, hypothetical, and the automotive company has given no indication that it intends to utilize the dark box tax assessment method. In fact, the company was extremely willing to come to the table during the financial crisis to ensure local governments could continue to function.

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However, with FCA alone contributing 23 percent of the area's tax revenue, Pullen said it's a poignant demonstration of how devastating the dark box tax assessments could be. With FCA contributing \$83.69 million in tax revenue last year to local entities, if the 45-percent cut suggested by some studies comes to fruition then as much as \$37.6 million in tax revenue could be lost. She puts it plainly; the industrial personal property funds the city, county, and school budgets.

"Worst case scenario here, if we have all those big box appeals, not only will the 1-percenters pay more, the 2- and 3-percenters won't pay more because they're all at the tax cap," said Pullen. "The 1-percenters will already pay more, but the rest is simply a loss. It's a big loss to the city, the county, the schools especially, and all other units of government. When you get hit that hard then it's a loss. You cut services when you're hit that hard."

A solution on the horizon?

According to Pullen, a stop for the dark box methodology may be coming soon before such a scenario even needs to be considered.

Following the Supreme Court's decision, many postulated that the task of correcting tax assessments in Indiana would fall on the shoulders of the legislature. But it appears that the Indiana Department of Local Government Finance is proposing a preemptive fix.

In an article dispersed last year by Courtney Schaafsma, the commissioner of the DLGF, the organization pointed out that precautions the legislature took in 2015 against dark box assessments left a few holes in the law regarding market-value-in-use, or the method in how Indiana assessed taxes. This, in turn, could leave some opportunity of dark box assessments.

As such, the DLGF is proposing a rule change to the Indiana administrative code that Pullen hopes will help with the issue by clarifying certain facets of market-value-in-use.

In short, she believes it will stop companies from being able to compare unused property to successful, profit-generating property.

"I think it would stop the comparison of stores that are up and running being compared to dark and in weeds boxes," said Pullen. "They're wanting the market segmentation to say you compare it to a like property, which means that you would compare it to one that is up and running instead of dark."

The proposal will be subject to a public hearing by the DLGF on July 24 in Indianapolis. If approved, it would take effect Jan. 1, 2018.

ILLINOIS - Don't Throw the (Over One Million Dollar) Baby Out with the Bath Water

In lawyer David Simon's call to abolish property tax exemption for "rich" nonprofits, he argues stridently that Illinois property tax exemptions reflect another example of unfair privileges, this time for "wealthy" nonprofits like the University of Chicago and Northwestern University. He thus advocates for granting property tax exemptions only to nonprofits owning property valued at less than a million dollars. His bright-line rule seemingly eliminates the highly problematic political schemes such as those found in PILOTs ("Payments in Lieu of Taxation") which some state and local governments have adopted. But his commentary ignores the long history of nonprofit tax exemptions, the extensive societal benefits (including both financial and intangible benefits) resulting from such exemptions, and other key policy considerations.

The vast majority of nonprofits are nothing like these educational behemoths. Nevertheless, nonprofit organizations are increasingly challenged to justify their usefulness as charities, valuable educational organizations, and religious organizations. Although nonprofits' usefulness could aid in securing donor support and property tax exemption, it is neither the main reason why property tax exemptions should continue nor why they are more affordable, in the long run, than imposing property taxes on nonprofits as a blanket rule.

As an initial matter, property tax exemption reflects a long-standing acknowledgment of the many benefits provided by nonprofit institutions, including the promotion of civic virtues, morality, care for the needy and disadvantaged, education, and other valuable good works. As the U.S. Supreme Court recognized in its 1970 *Walz v. Commissioner* ruling, nonprofits can

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provide extremely important beneficial and stabilizing influences in community life. Likewise, Harvard President Charles Eliot argued over a century ago that nonprofits bring incalculable benefits to our civilization, improving society in innumerable ways that the government cannot. Based on this reasoning, state laws uniformly provide broad property tax exemptions to charitable, religious, and educational organizations.

Second, a key consideration for exemption approval is often whether a nonprofit offsets government burdens – that is, whether the nonprofit provides services that the government must otherwise provide (e.g., charitable nursing home care, schools, parks and recreation). Since government is not taxed on its real estate, neither should nonprofits that engage in what would otherwise be government activities - often more efficiently and effectively than the government. This point rings particularly true here in Illinois, with state government in such extreme disrepair that many nonprofits have been forced to close or drastically cut back on their services due to lack of and/or delayed government funding. The lesson is clear: it is best these days to pursue private philanthropy to fund charitable activities (while offsetting government burdens in the meantime).

Third, property tax exemption reflects the public policy principle that organizations without commercial income should not be required to pay taxes, such as churches that rely on tithes and offerings and organizations primarily supported by donations and by providing non-commercial services. Charitable contributions thus provide revenue sources to nonprofits, but they should not be taxed thereon. Significantly, nonprofits that operate certain activities “with a view to profit” (in property tax exemption legal parlance, such as charging fees for parking) will not qualify for property tax exemption under most state laws including Illinois, nor will any portion of a nonprofit’s property used for such non-qualifying purposes. (Note that Northwestern is a different case, since its exemption is per legislative charter).

Fourth, property tax exemption avoids sticky issues surrounding government involvement in nonprofit activities, particularly those of religious institutions. As a matter of well established constitutional law, the government must not become “excessively entangled” in religious issues such as whether an organization is engaged sufficiently in religious activities (e.g., worship versus other activities). As Justice O’Connor observed, our country’s leaders have “accorded religious exercise a special constitutional status,” with all agreeing that “government interference in religious practice was not to be lightly countenanced” (*City of Boerne v. Flores* 1997). More broadly, as Chief Justice John Marshall famously recognized long ago in *McCulloch v. Maryland*: “The power to tax is the power to destroy.” These strong constitutional and policy arguments recognize the many benefits that religious institutions provide to society—not least of which is the promotion of robust and meaningful communities in our pluralistic society. Imposing property taxes on religious organizations thus would run counter to historical and constitutional precedent and oppose well established public policy. It also would undermine and weaken the quality of service to those in need, civil dialogue in the public square, and the ability of many to pursue human flourishing.

Simon’s draconian approach ignores the tremendous public policy considerations favoring continued exemption, as well as the law that operating property for commercial “view to profit” purposes disqualifies a nonprofit property owner for exemption (no matter how laudable its cause). These public policy considerations not only predate our current legal system, but also recognize that many of the societal benefits provided by nonprofits should be protected from the whimsical application of legislative grace (or even the grace of Mr. Simon). Are there problems with the legislative mechanisms put in place to help maximize the benefits to civil society? Of course—just as with all products of our legislative system. But categorically abolishing property tax exemption for each and every nonprofit simply because it may own property worth more than \$1 million is not the right answer.

California Supreme Court Affirms Novel M&A Tax

Suppose Mr. Henry owns all of the outstanding shares of a Virginia corporation that owns all of the issued and outstanding shares of a Massachusetts corporation that owns, among other things, real property in Los Angeles, California. Suppose further that Mr. Henry sells his shares in the Virginia corporation to a buyer in New York and that the transaction is negotiated and closed in New York. Does anyone believe that the County of Los Angeles can impose a documentary transfer tax on the transaction?

In an alarming decision yesterday, the California Supreme Court held that the County of Los Angeles could impose a documentary transfer tax on a written instrument that transferred beneficial ownership of real property from one person to two others. *926 N. Ardmore Ave. v. County of L.A.*, 2017 Cal. LEXIS 4768 (Cal. 2017). The case arose when the County of Los Angeles imposed a documentary tax on the transfer of interests in a partnership that was the sole member of a limited liability company that owned a building.

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Under California's property tax regime, a change in ownership triggers reappraisal and reassessment for property tax purposes. (Cal. Const., art. XIII A, § 2) A "change in ownership" of real property occurs when there is "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." Cal. Rev. & Tax. Code § 60. A transfer of an interest in a legal entity can in some cases constitute a change of ownership of the entity's real property. See Cal. Rev. & Tax. Code § 64. Whenever there is a change in control pursuant to Cal. Rev. & Tax. Code § 64(c) or a change in ownership pursuant to Cal. Rev. & Tax. Code § 64(d) of a legal entity, and the legal entity owned or leased an interest in California real property as of that date, the person or legal entity acquiring ownership control or the legal entity that has undergone a change in ownership must file the BOE-100-B, Statement of Change in Control and Ownership of Legal Entities (statement) with the Board of Equalization within 90 days of the change in control or ownership. Cal. Rev. & Tax. Code §§ 480.1 & 480.2. The BOE is required to share that information with county assessors, so that each assessor can determine whether property within its jurisdiction has changed ownership. *Id.*

Although also related to real property, California's Documentary Transfer Tax Act, Cal. Rev. & Tax Code § 11901 *et seq.* is an entirely different law. The DTTA allows a county to impose a tax "tax "on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the county shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser . . ." Cal. Rev. & Tax. Code § 11911(a). In 2009, the legislature amended the property tax law to require county assessors to disclose change of ownership information with county recorders. Cal. Rev. & Tax. Code § 408(b). As a result, the recorders in Los Angeles and other counties began to equate a *change of ownership* for purposes of the property tax law with a transfer under the DTTA. Unfortunately, the California Supreme Court has now endorsed this approach.

I disagree with the majority's opinion for several reasons. First, the DTTA was enacted in 1967 while the voters approved Proposition 13 governing real property taxation more than a decade later. The legislative provisions implementing Proposition 13 were enacted in 1979. Thus, Proposition 13 and its implementing statutes should have no bearing on the legislature's intent in adopting the DTTA. Second, as Justice Leandra Kruger observed in dissent, the statutes were adopted for different purposes. Proposition 13 relates to when real property may be re-assessed while the DTTA is an excise tax on the privilege of selling a real property interest, not a tax on the property itself. Third, the majority's approach would allow documentary transfer taxes to be imposed on transactions, entities and owners that have no relationship to California whatsoever (see the above example).

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