



## UNITED STATES - August 2017

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### **MICHIGAN - State lifts oversight of Detroit property assessments**

The Michigan Tax Commission has relinquished its control over property reappraisals in Detroit.

The three-member commission unanimously voted Tuesday to release the city from the oversight it's been operating under since 2014 in the wake of mismanagement in Detroit's Assessment Division, widespread over-assessments and rampant tax delinquencies.

The commission had put in place a corrective action plan in hopes of overhauling the troubled Detroit department that sets property taxes.

"This is one more symbol that city government has gotten this right," said Alvin Horhn, the city's assessor and deputy chief financial officer, Wednesday of the commission's decision. "Detroit basically had been a island to ourselves for a long time. That type of intervention was hard to swallow."

### **International Property Tax Institute**

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The oversight stemmed from a yearlong investigation by The Detroit News that found Detroit was over assessing homes by an average of 65 percent, leading to higher tax bills, according to an analysis of more than 4,000 appeal decisions by a state tax board.

The series prompted state regulators to overhaul the city's Assessment Division.

A centerpiece of the agreement was a citywide reappraisal initiated in 2014 to bring Detroit's assessment role into compliance with the General Property Tax Act to ensure all assessments are at one half of the market value and like properties are uniform.

Such an effort hadn't been undertaken in Detroit since the 1950s, Horhn added.

In a Tuesday memorandum to the tax commission, its executive director, Heather S. Frick, noted the city's progress on reappraisals.

"The city has continued to move forward in their work to improve the residential reappraisal and to complete work on the commercial and industrial reappraisals," wrote Frick, adding city staff continues to conduct field visits on residential properties and do verifications to "maintain and improve the residential reassessments."

Work on commercial and industrial properties outside of the city's Commercial Business District and Midtown remain on track. The city has experienced a delay in its downtown reappraisals, but has hired firms to assist and recently issues a request for proposals for a project manager, Frick wrote.

The commission granted Detroit an additional year to complete reassessment of commercial and industrial reappraisals.

Horhn said the department is on schedule to complete industrial assessments this year. All commercial assessments will be completed in 2019, he said.

The city, he said, hadn't yet requested it be released from oversight, and it came sooner than anticipated.

"We fully expected the State Tax Commission to keep the direct oversight until we completely finished all classes of property," he said. "It was unexpected but a pleasant surprise."

The commission also intends to conduct a review in 2020 to ensure completion of Detroit's reappraisal work.

Tax Commission Chairman Doug Roberts said the work Detroit has done in its reappraisals has been "very positive."

"I was concerned about it for a while, but I was very pleased with the report that we got yesterday," Roberts said Wednesday. "The fact of the matter is I think they have been working very hard on it. I was pleased to vote for it."

The city expects to spend nearly \$9 million on the reappraisal project, which has included use of aerial photography, mapping programs and exterior inspections by staffers to gauge neighborhood conditions and better reflect property values.

In January, the Duggan administration unveiled its proposed 2017 property assessments on the heels of the completion of the parcel-by-parcel reappraisal for nearly 255,000 residential properties.

Officials estimated 140,000 homeowners would see reductions in their taxes of several hundred dollars.

The new assessments also were based on property sales data from Oct. 1, 2014, through Sept. 30, 2016.

Reductions in recent years came after homeowners long complained that assessments, which taxes are based on, didn't match market value, significantly increasing taxes and leading to foreclosures.

Michele Oberholtzer, founder of Tricycle Collective, a city-based nonprofit that works to keep families in homes, said the accuracy of assessments in Detroit is improving, but bigger issues remain.

"In my line of work, it's cold comfort," she said. "It's wonderful that we're seeing these assessments corrected but it does not resolve the most detrimental impacts of the wrong assessment, which is tax foreclosure."

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### **HAWAII - Honolulu property tax laws go into effect**

Some changes are coming to the property tax laws for the City and County of Honolulu.

They're going into effect this Friday.

For thousands of Oahu residents, the failure to fill out a simple form could cost you thousands of dollars.

On June 16, the city says they mailed out letters and petition forms to about 8,000 homeowners whose properties are affected by this change.

Like most jurisdictions across the U.S., the city and county of Honolulu has several property tax classifications.

Effective this Friday, thousands of Oahu property owners could be in for a rude surprise.

"There was a technical change that happen in the property tax law this past year and basically what it says is that if your unit is mixed use, then what you have now, you can get a much higher property tax classification," said Tom Yamachika of Tax Foundation of Hawaii.

Mixed use refers to any building that has any combination residential, along with commercial or retail space.

The difference in property taxes is huge.

Right now the property tax rate for residential use is \$3.50 per \$1,000.

But if you're taxed at a commercial rate it jumps to \$12.40 per \$1,000.

To put it in perspective, a half million dollar residential property would pay \$1,750 per year.

But that same property taxed as a "Mixed Use" property would be shelling out \$6200 in annual property taxes.

"So to get around that you need to file what is called a residential dedication and needs to be in by Sept. 1," said Yamachika.

Yamachika says the city has sent out notifications to property owners, and that it's their responsibility to act by submitting a residential "dedication" form.

"If people have not understood with these letters were then they should be doing something or they're going to get a rude surprise," added Yamachika.

Yamachika says if you miss the Friday deadline there's no appealing it.

"If you don't do it you're out of luck. September 1 is the deadline," he emphasized.

### **ALASKA - Anchorage Gas Tax Proposed to Alleviate Property Taxes**

A group of residents who provides advice to the Anchorage Assembly has come up with a way to alleviate property taxes.

The Budget Advisory Commission submitted a proposal on Thursday for a 10-cent per gallon gasoline tax in Anchorage, KTUU-TV reported.

Al Tamagni, chairman of the commission, said the proposed tax would generate about \$14 million a year. The commission is recommending that 100 percent of the revenue be used for property tax relief.

Assemblyman John Weddleton praised the idea of taxing people who currently freely use city services while passing through.

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"A lot of people are interested in getting some tax revenue from people from the valley and other parts of the state that use city services but don't contribute, and this is one way to do that," Weddleton said. "So I think it's good to start kicking it around and see what people think about it."

Assemblywoman Amy Demboski, however, was skeptical.

"They tell you it's going to offset your property taxes, what happens if they change their minds?" Demboski said. "Now you're paying high property taxes and an additional 10-cents a gallon on a gasoline tax. At a time of economic recession, when people are hurting, it's going to hit families that much harder."

The proposal could be approved by the Assembly without a vote of the people, Tamagni said. The commission is recommending that 100 percent of the money generated by the new tax be placed under the municipal tax cap.

### **WISCONSIN - Walmart sues over assessment: City, schools could lose hundreds of thousands in property tax dollars**

Walmart is suing the city of Monona over the assessed value of the store in the city, asking the courts to reduce the value by two-thirds.

City officials were served a summons Aug. 9, according to online court records.

Records with the Dane County Land Information Office show the 13.4 acres are assessed at \$1,862,100, with improvements valued at \$26,707,500, for a total assessed value of \$28,569,600. Based on this assessed value, the company pays \$646,484.79 in taxes.

Walmart representatives are challenging those numbers, insisting instead the total value should be \$9,550,000 – a full two-thirds less, which would reduce its tax bill by about \$433,000.

The case was filed July 24 in Dane County Circuit Court. An initial court date has not been set.

"We're really concerned about this," Monona Mayor Mary O'Connor said. "It's going to fall on the residential homeowners to make up the difference."

Walmart pays the city \$50,000 each year for the increased need of city services, including law enforcement and senior citizen transportation. O'Connor said that was part of the original agreement when the store was built.

Marc Houtakker, city finance director, said the city first started collecting the annual payment in 2006. The 15-year agreement will end in 2021, he said.

"It's not like we're never out there," O'Connor said. "We get some money every year, but it doesn't defray all of our costs. And when the police are there, they can't be patrolling other parts of the city."

Earlier this year, a report compiled by the MultiJurisdictional Public Safety Information System (MPSIS) Commission showed Monona police responded 1,088 times to Walmart in 2016. Those calls resulted in 1,517 officers being dispatched to the store, and those officers recorded 1,009 hours of work on those initial calls, bringing the cost to the police department to \$51,731.

To make up the loss of tax money from Walmart, Houtakker said it would average out to about \$110 per year for a home assessed at \$283,000.

Any reduction in taxes due would also affect the Monona Grove School District, as the schools receive a little more than half of each property owner's taxes. If Walmart is successful in its challenge, the school district could lose about \$233,000.

In recent years, big box stores have successfully challenged their property tax bills, often slashing their tax bills by as much as 50 percent.

Walgreens and CVS rely on a 2008 Wisconsin Supreme Court decision, *Walgreens v. City of Madison*, to control how assessors must value their stores.

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Target, Lowe's, Menards and other big box chains are using what is known as the "dark store theory" to argue the assessed value of a new store in a thriving location should be based on comparing their buildings to sales of vacant stores in abandoned locations, or traditional warehouse properties.

A bill to negate those legal arguments is working its way through the legislative process in Madison, but state Rep. Jimmy Anderson said progress is slower than he would like.

Monona is also home to a Walgreens, Menards, Pick 'n Save, Shopko and Kohl's, any or all of which could follow in Walmart's footsteps if successful in its lawsuit.

### **GEORGIA - Attorneys argue tax assessment appeals to Ga. Supreme Court**

The dissection of a 2016 law's language was at issue Tuesday in a case involving Hall County tax assessments and five companies leasing shoreline property on Lake Lanier.

Attorneys for the Hall County Board of Tax Assessors and the companies argued before the Supreme Court of Georgia in Atlanta. The case involves Westrec Properties, PS Recreational Properties, Chattahoochee Parks, March First and AMP III-Lazy Days on their 2015 tax assessments.

A law effective Jan. 1, 2016, amended the Georgia code regarding ad valorem tax assessment appeals, which must first go to the Board of Equalization for an appeal.

Within 45 days of receiving an appeal on the Board of Equalization's ruling and "before certification of the appeal to the Superior Court, the county board of tax assessors shall send to the taxpayer notice that a settlement conference" will be held, according to the code.

The board's attorney Joseph Homans called the process a "link in a chain," with the last link being the appeal to Superior Court.

"Under the effective date approved by the legislature, the appearance before the Board of Equalization was not covered by this act," Homans said. "Yet, you would be saying that the appeal to Superior Court somehow impacts what happened before the Board of Equalization, when the act wasn't in effect."

The marinas' valuations jumped dramatically between 2014 and 2015 when the county considered docks and additions as real property instead of personal property. The increases ranged from 350 percent to 3,200 percent.

The marinas' attorney J. Ethan Underwood said his clients believed the floating and movable docks should have been taxed as personal property, leading to the initial appeal.

The notice of appeal to Hall County Superior Court came in January 2016, but the board did not respond to the notice within the timeframe. The board did, however, respond to a later demand by the companies to enter the 2014 values into the board's records.

"Interestingly in that very same email ... was a statement that the filing fee had changed from \$210 to \$25 under the very same statute that we're here discussing," Underwood said.

Many of the justices' questions to Homans focused on the 45-day window and the settlement conference.

"The statute says that we are to send notice, but it doesn't attach a penalty," Homans said.

The Hall County Superior Court judge ruled in favor of the marinas after a settlement conference following the 45-day window.

Homans' case also raised a separation of powers issue, in which he claimed the legislature's actions take some of the court's authority over the tax appeal.

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"It's possible to settle an appeal to Superior Court with no judge ever knowing we existed. We file the notice of appeal, we settle it out, it never gets to a judge's desk. That's why we're saying it doesn't violate separation of powers," Underwood said.

### Texas House OKs property tax bill cities oppose

The Texas House has advanced a bill designed to lower property taxes over objections from top cities, who say it will hamstring their budgets.

The proposal approved 98-43 late Saturday requires city and county governments to hold elections if property taxes increase by 6 percent, letting voters possibly "rollback" that increase. Final House approval should come Monday.

The state Senate has already approved requiring property tax increases of at least 4 percent to trigger such elections so the issue will now go to conference committee. Current law mandates referendums on property tax hikes worth at least 8 percent.

Rollback election bills stalled during the regular legislative session, but Gov. Greg Abbott called lawmakers back to work, demanding property tax cuts.

Local leaders have for months accused the Republican-led Legislature of "overreach."

Texas' big cities are booming like few places in the U.S., and mayors say Republican Gov. Greg Abbott is doing damage by trying to rein them in.

Leaders of Texas' biggest cities, including Houston and Dallas, headed into the final weekend of a special legislative session Saturday trying to stop bills aimed at curbing municipal authority. One would require voter approval for raising local taxes above a certain threshold.

Similar power struggles between cities and states are playing out across the U.S. as GOP governors take aim at liberal urban areas where Democrats wield most influence.

In Texas, one bill opposed by cities that appears all but dead is North Carolina-style bathroom restrictions on transgender people. The measure was sidelined for the second time this year by moderate House Republicans.

### Texas Legislature ends special session without passing property tax measure

The Texas Legislature closed out the special session Tuesday night amid a stalemate on property tax reform, leaving unfinished Gov. Greg Abbott's top priority.

Hours earlier, the House abruptly adjourned sine die – the formal designation meaning the end of a session – after advancing a school finance compromise to Abbott's desk but declining to further negotiate on a key property tax proposal. When the Senate returned later in the night, it rejected the only remaining option to get the bill across the finish line, which was to accept the House's version.

"We are not going to accept the take-it-or-leave it proposal from the House, and we are going to fight another day," said state Sen. Paul Bettencourt, the Houston Republican who had authored the property tax bill. "I hope the governor calls us back as soon as possible."

It was a disappointing end for Abbott's No. 1 issue, but the governor appeared pleased with the results of the special session. There was no immediate indication of whether he was open to calling another special session to keep trying on property tax reform.

"Our office believes this special session has produced a far better Texas than before," Abbott spokesman John Wittman said in a statement.

Abbott called lawmakers back for the special session on July 18. Special sessions can last for up to 30 days, which gave both chambers until Wednesday to work.

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The House's abrupt adjournment came after days of difficult negotiations with the Senate on school finance and property tax bills.

House Ways and Means Chairman Dennis Bonnen had been expected to appoint members to a conference committee Tuesday so the two chambers could reconcile their versions of the bill.

But instead, shortly before the surprise motion to sine die, the Angleton Republican made an announcement.

"I have been working with members of the Senate for several days on SB 1, we have made our efforts, so I don't want there to be in any way a suggestion that we have not, will not, would not work with the Senate on such an important issue," he said.

Then he said he had not appointed a conference committee because he was "trying to keep the bill alive."

"If we appointed conferees now, it would kill the bill because there is not enough time," he said, explaining that under House rules, there would not be enough time left in the session to issue a conference committee report and have the chamber vote on it.

Bonnen's announcement came after a vote on a school finance measure in which House members expressed deep disappointment —and anger — that the bill they had sent to the Senate had come back largely stripped provisions the chamber had fought to keep, including reducing \$1.8 billion in funding for schools to only \$352 million.

"I'd tell the Senate to take back this crap and fix it," said state Rep. Senfronia Thompson, D-Houston, adding that she did not like "being bullied." The House ultimately approved the changes to the bill, sending it to the governor's desk.

While House lawmakers didn't get their way with school finance, by adjourning Tuesday night, they forced the Senate to either accept their version of the property tax bill or let it die. A key point of contention between the chambers: whether the threshold requiring voter approval of property tax increases should be at the 6 percent preferred by the House or the 4 percent preferred by the Senate.

Some conservatives, including Patrick, have claimed an automatic election trigger would drive down property taxes. But such elections would only happen when taxes rise.

Bonnen and other House members repeatedly said the automatic elections would not drive down taxes. They also said transparency provisions that existed in at least two bills sitting in the upper chamber Tuesday would have made it more clear to homeowners which local government entities were behind rising tax bills.

And while the Senate focused on what increase should require voter approval, the House debated and passed far more bills during the special. That included legislation that would have lowered property tax payments for some Texans, including the elderly, disabled and military members.

So far at least one other Senate Republican, Don Huffines of Dallas, has joined Bettencourt in calling for a second special session.

Both Lt. Gov. Dan Patrick and Abbott have said property tax reform is their top priority for the session. At the time the House adjourned sine die, Abbott was on track to claim victory on nine of the 20 items he had put on the special session call. As of Tuesday afternoon, he had signed five of them into law, and four more were on their way to his desk.

Patrick forced the special session by holding hostage a bill needed to prevent the shuttering of some state agencies during the regular session in May. At the time, he said he was doing so in order to push the House to move on two pieces of legislation: one that would regulate bathroom use for transgender Texans and another that would set new thresholds for when cities and counties must get voter approval for their property tax rates.

Just as during the regular session, the House never took a vote on a "bathroom bill" during the special session.

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## NEBRASKA - Almost 30 percent of protesters win property value changes

Sue McCollum showed up at the Lancaster County Board of Equalization meeting last week to make a final plea to reduce the assessed value of her home.

Last year her house was valued at \$128,000. This year the assessment was set at \$224,300, an almost \$100,000 increase.

Her house, in southwest Lincoln, may look OK from the outside. But the house has no furnace and no central air conditioning. It cannot have a furnace installed because there is no duct work, McCollum told the five-member Board of Equalization at the final protest opportunity offered property owners.

There are cracks in her walls; the foundation is settling; the basement is a crawl space; she has an older septic system and uses well water with a high lead content. She uses bottled water for drinking and cooking.

McCollum, who bought the property because she wanted the land for her horses, said beautiful houses have been built all around her.

"But my house isn't worth the same as theirs."

And the referee, hired by the county to handle the valuation protests, agreed. He recommended her value be reduced to \$162,200.

McCollum was among the 3,608 property owners who officially protested their values this summer.

And she was among the 21 people who brought their valuation protests in person to the County Board of Equalization last week after their first attempt to convince a referee had failed.

Her success placed her among the 28 percent of all protesters who convinced a referee and the Board of Equalization to change their values.

\* 47 of the 273 ag land protests were changed.

\* 957 of the 3,230 residential protests were changed.

\* 19 of the 105 commercial protests were changed.

Almost all of the changes were reductions in value, said County Clerk Dan Nolte.

One or two people sought to increase their property values, he said. But most wanted a reduction.

This year the county assessor reassessed residential property, trying to keep values for tax purposes close to rising market rates.

"We are in an unprecedented market. It's the biggest appreciations I've seen in my career," Tom Kubert, with Great Plains Appraisal, told commissioners.

By law the county assessor sets assessed values between 92 and 100 percent of market value.

Total residential values countywide rose by about 10 percent under the reassessment, but some homeowners saw increases much higher than that.

McCollum was among the protesting homeowners who got some relief.

A total of 5,198 property owners also protested their values in an informal process this winter. The assessor's office changed 3,254 — more than 60 percent — of those values. Most were adjusted downward.

The more than 3,000 formal protests this summer represented less than 3 percent of the total parcels of property in the county, said Kubert, whose firm was hired to act as referee for the protest process.

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About 2,600 property owners asked for a meeting with the referee. Others sent in information defending their protest.

The Lancaster County Board, which acts as the Board of Equalization, allows protesters to provide additional information after the referee's initial decision and to talk at the final board hearing. Neither are required by law, Kubert said.

The referee recommended the board reduce the value for three of the properties brought to its attention by the 21 people who talked at Tuesday's public hearing.

The assessed values form the basis for local property taxes, and those taxes help pay for services provided by local governmental units, like the schools, the city and the county.

### **VERMONT - It's the property tax that's unfair**

Economist Art Woolf wrote recently that Vermont spends too much on education because taxes are too low for many residents. Woolf was referring specifically to resident homeowners who qualify to pay school taxes as a percentage of their income rather than on the value of their property. According to Woolf, because their income-based taxes are less than their property taxes would be, these homeowners feel like education in Vermont is on sale, so they're buying more of it.

One problem with Woolf's hypothesis is that it assumes that the value of a primary residence is a fair and rational indicator of how much each Vermonter should be contributing to the education of our children. It may have been 200 years ago, when the value of a person's property and possessions was the best measure of his ability to pay. But that isn't true today, and the system should be brought up to date with today's economy.

The education of children is one of society's most important responsibilities, and we all benefit when children can grow to be informed, productive, contributing members of the community. Because we all benefit, we each need to contribute our fair share to the cost of education - that is, according to our ability to pay. In our present-day economy, a better and fairer indicator of a person's ability to pay is income, not the assessed value of one particular piece of property.

Nearly 50 years ago, Vermont recognized that property values did not reflect people's ability to pay. At the time, newcomers were moving to Vermont and driving up property values, but older residents living on fixed incomes didn't have the money to pay their higher tax bills. To avoid pushing people out of their homes, Vermont instituted a rebate program for older homeowners whose property taxes exceeded a certain percentage of their income. This ability-to-pay concept was later incorporated into the state's current education funding system. Today, about two-thirds of Vermont homeowners pay school taxes based on their household income rather than the value of their home.

Woolf argues that these people are getting a break, and that because they're getting a break, they feel they can afford to spend more on education. But studies done by the Vermont Tax Department over the years show something different: that many high income Vermonters who pay property taxes are the ones getting a break. People with annual incomes of \$500,000 or more typically pay a smaller percentage of their income to support schools than do Vermonters with incomes of \$60,000 or \$70,000. Given the importance of education, shouldn't those who benefit most from society contribute the most to the cost of educating our children?

There is a problem of fairness with Vermont's two-tiered system, but the solution is not a return to the school property tax for all Vermont resident homeowners. A fair system would have all Vermont residents pay school taxes based on their income and all non-residential property owners continue to pay the property tax.

### **Kentucky Governor Wins Property Tax Appeal On His New Home**

Kentucky Gov. Matt Bevin has won a property tax dispute that had prompted two ethics complaints from people who had questioned whether the governor and his wife got a sweetheart deal when buying their new home.

The Jefferson County Board of Assessment Appeals agreed with the value an appraiser hired by Bevin's team had placed on the property that includes the governor's home.

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In a ruling released Friday, the board set the value of the property in a wealthy Louisville suburb at \$2.15 million — the same amount placed on the property by Bevin's appraiser as part of the Republican governor's appeals case.

The Jefferson County property valuation administrator had previously determined the property is worth \$2.9 million.

Bevin purchased the property from a friend and campaign donor for \$1.6 million, which led to two ethics complaints that have since been dismissed by a state ethics commission.

Mark Sommer, Bevin's attorney, said Friday he was pleased with the assessment appeals board's finding, and praised its handling of a case that stirred an "unprecedented amount of attention and very real distractions."

Jefferson County Property Valuation Administrator Tony Lindauer said he respects the three-member board's decision and will not appeal the value it set.

"The appeals process is in place for a reason," he said. "This was an example of why we have it. We have to respect the process."

Louisville Mayor Greg Fischer, a Democrat, appoints the full appeals board's membership, but he does not choose which members hear individual cases, the mayor's office said.

Bevin bought the home in March and later appealed the value set by the local PVA's office. The governor argued that he purchased 10 acres of a 19-acre tract and said the home required significant repairs.

The three-member appeals board inspected the home in person. But local officials said they were prevented from accessing much of Bevin's home. Lindauer said two staff members told him the inspection did not include the house's second floor, third floor and barn, The Courier-Journal reported.

The valuation issue that simmered throughout the summer was whether Bevin and his wife got a sweetheart deal on the house.

Bevin and his wife purchased the home from Neil Ramsey. Bevin appointed him to the Kentucky Retirement Systems board of trustees. Ramsey is also part-owner of a company that has a contract with the state.

A state watchdog group and a Democratic lawmaker filed ethics complaints, but an ethics commission unanimously dismissed them both, saying no law bans "public servants from engaging in a financial transaction or giving each other gifts."

Bevin has dismissed criticism of the property purchase as "political mumbo jumbo," and was sharply critical of media coverage of the matter. He tweeted Tuesday that a drone was "flying directly over and around my home filming my children."

The board's ruling surfaced a day before the annual Fancy Farm picnic — the state's premier political event. The ruling could defuse one of the issues that Democratic stalwarts might have planned to use in skewering Bevin, who planned on skipping the event.

Richard Beliles, chairman of Common Cause Kentucky, said Friday he relied on the PVA's value in filing his ethics complaints against Bevin in the matter. He said he was surprised by the outcome of the governor's property tax appeal.

"I've never known the PVA to be that far off," he said.

## **COLORADO - Understanding property taxes in Colorado is not for the faint of heart**

Your taxes may not go up as much as your new valuation

Take a quick glance at property for sale in local newspapers and it's obvious: prices are up. Even so, if you own property in Gunnison County, you may have been surprised to learn this past spring just how much your home's value has risen. That's good if you're looking to resell, but not so good when you consider that your property tax bill may increase.

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Or will it? Flip to the B side—the governor recently signed a bill lowering residential property tax rates in Colorado. This should temper the impact of rising home values here. Of course, it's not so simple as calculating a rise or fall in the state rate, or a dip or spike in property values. There's no way to know for sure right now whether, or by how much, your individual property taxes will increase next year.

"Use your current taxes as a guide," suggests Gunnison County assessor Kristy McFarland.

The state rate, McFarland says, was lowered to 7.2 percent, down from 7.96 percent. According to the Gunnison County Assessor's report, "The proposed lower tax rate means a 10 percent reduction in residential tax collection" across the state. Gunnison County, says the report, "similar to other ski area counties... has had an increase in property value approximately proportional to the projected decreased tax rate, and effects of the lower rate are expected to be minimal."

In other words, as state rates go down and local values go up, the net effect, at least for now, is a wash.

The reduction statewide is necessary, says McFarland, to keep Colorado copasetic with its constitution, most notably, the 1982 Gallagher Amendment.

As residential property values have risen, oil and gas prices, and the value of non-residential property owned by the fossil fuel industry, has declined. Oil and gas, McFarland says, make up the majority of non-residential property in Colorado. The Gallagher Amendment defines how home values are appraised; more important, it limits the property tax burden borne by residential property owners to 45 percent of the total statewide, with non-residential property owners picking up the tab for the remaining 55 percent. Owners of commercial and business property could feel the hit.

As residential property values rise and non-residential values decline, the rate of taxation on homeowners must be adjusted downward to maintain that 45/55 ratio. But a reduction in the state rate sometimes sparks changes in local district mill levies that support such services as the school district and fire protection. A community's relationship with Colorado's Taxpayer Bill of Rights (TABOR) matters, too. Some have voted to de-Bruce, as they call it, which allows them to raise their mill levies beyond the limits imposed by TABOR. McFarland cites Skyland as a local example. The Skyland Community Association opted to de-Bruce in 2008. (The term de-Bruce comes from Douglas Bruce, the founder of TABOR.)

McFarland says it's important to note that the county re-assesses property values every two years. So, if it seems your home's assessed value has risen sharply, that rise is based on two-years' market value increase, not just one. The value you recently received in the mail was the assessment for 2016. According to the assessor's report, "Real estate values are influenced by numerous external economic, social, governmental, and physical factors. As property values change in the marketplace, those changes must be reflected on the assessment roll."

It's not necessarily a given that your taxes will rise even if the value of your home has risen. McFarland says the tax you ultimately pay is the result of your assessed value plus local district mill levies. Mill levies are determined at the end of the calendar year, so, says McFarland, we won't have all the pieces to the formula that will determine how much you'll pay in 2018 until December 2017.

While the rise and fall of taxes impacts property owners' wallets, it also can have positive or negative impact on services. Communities where property values are stagnant or falling will feel the pain of reduced tax revenues when the state rate goes down. Those funds, said McFarland, are crucial to supporting schools, hospitals, and other vital community programs. Those communities, she added, often have more difficulty passing mill levies to make up for those shortfalls, whether they have de-Bruced or not.

The two-year assessment cycle aside, prices are up this year compared to last year, especially in Crested Butte. "We've seen four years of steady price increases," said Crested Butte real estate agent Chris Kopf. "We're seeing prices rising in every category, with interested, active buyers."

McFarland confirmed this. "The median increase over the prior year (excluding properties that had new construction) in Crested Butte was 26 percent," she said. So, a home that sold last summer for \$1 million would sell for \$1,260,000 this summer. While not all real estate markets in the county are as hot as Crested Butte, prices are up countywide, both in 2016 assessed values and in year-to-year values. "Very few areas saw a drop in value," McFarland said, "although Arrowhead was slightly down."

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McFarland cautions that spikes on the graphs measuring values can be misleading. “The problem with the Crested Butte market is that it’s so tiny,” she says. The sale of a few high-end homes, she explained, can skew the data and make the graphs look more dramatic than the reality on the ground.

Kopf agreed. “The greatest increases are seen in the luxury home market, so the sale of a few high-end properties can impact the overall price picture,” he said, but suggested an additional influence based on what he’s seeing this year: the rapidly changing makeup of the Crested Butte market. “Our inventory of homes under a million dollars is evaporating, which makes the increasing prices seem more dramatic than they are when comparing [median prices] last year-to-date with this year-to-date,” he said.

Kopf’s market report for month-end May shows 134 single family homes for sale in the Crested Butte area. Only 36 of those, he said, had an asking price of less than a \$1 million. If you look at the listings, many of the homes selling for less than \$1 million aren’t selling for much less.

That’s not to say the few, lower-end properties being sold aren’t a part of the overall upward trend. The median price of a condo in the Crested Butte area was \$297,000 in May 2016. That price rose to \$321,000 in May 2017.

Gunnison County is divided into four economic areas: 1, 2, 6 and 8. Area 1 is the City of Gunnison and the area immediately surrounding it. Area 2 is restricted to the town of Crested Butte city limits only. The town’s National Historic District designation makes this a unique market, distinct from all others in the county. Area 6 is everything north of Jack’s Cabin, excluding Crested Butte, but including Skyland, Trappers’ Crossing, Mt. Crested Butte and Crested Butte South. Everything else is Area 8, rural Gunnison County, taking in everything from Marble and Somerset to Almont, Parlin, Pitkin, Tin Cup and Powderhorn.

“Looking at the graphs, you can see that Gunnison [Economic Area 1] has been relatively stable over the years,” said McFarland. By contrast, the Crested Butte graph [Economic Area 2] shows a spike in 2011, and one again from 2015 to 2016. However, if you look at the bar below the line, which indicates volume, or number of homes sold, you’ll see that the number was low in 2011, the heart of the Great Recession. So, that spike was likely caused by the sale of only a few higher-end properties. The same phenomenon can be seen on the Rural Gunnison County graph [Economic Area 8] in 2009, the onset of the economic downturn, showing the lowest sales volume of the decade.

Some have an opportunity to reduce their property taxes

If you’re a senior, you may qualify for a discount on your property taxes. While the deadline to apply for that has passed for eligibility in 2018, it’s something to look into next year.

There’s a discount available for disabled veterans too; information is available on the Gunnison County assessor’s website.

According to the Lincoln Institute of Land Policy’s 50 State Comparison Study for Taxes Paid in 2016, “Alabama, Colorado, Hawaii, West Virginia, and Wyoming are the five states where effective tax rates on median-valued homes are among the ten lowest [in the country] in both urban and rural settings—suggesting that these states are most likely to have the lowest homestead property taxes.” The report also states, “Property tax has key strengths as a revenue instrument for local government: it is the most stable tax source; it is more progressive than alternative revenue options, and it promotes local autonomy.”

### **Exclusive San Francisco street auctioned for £70,000 after wealthy residents ‘failed to pay \$14 property tax’**

'I really just wanted to own something in San Francisco because of my affinity for the city,' says new owner Michael Cheng

The private investor bought the street in 2015 and now owns the pavements, the street itself and other areas of 'common ground'.

The wealthy residents of an exclusive San Francisco street have threatened legal action after learning that the communal areas outside their homes have been sold to a private investor for a combined total of just £70,000.

Despite the street’s mansions selling for millions of dollars, an unpaid tax bill saw the carefully manicured lawns and pristine pavements of Presidio Terrace auctioned for a mere \$90,000.

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Michael Cheng and his wife Tina Lam bought the gated street and now own the road, footpaths and other areas of "common ground" in the private development.

The auction stemmed from an unpaid bill after the homeowners association for Presidio Terrace failed to pay a \$14-a-year property tax, something that owners of all 181 private streets in San Francisco must do, the San Francisco Chronicle reported.

The Californian city's tax office put the property up for sale for \$994 in an online auction to claw back unpaid back taxes, penalties and interest. The couple eventually won the street with a \$90,100 bid in an April 2015 auction.

But Scott Emblidge, the lawyer for the Presidio Homeowners Association, has blamed an administrative mix-up for the missed payments.

According to a letter seen by the Chronicle, he said the owners failed to pay because the tax bill was being sent to the address of an accountant who hadn't worked for the homeowners association since the 1980s.

Mr Emblidge said the residents didn't know their street was put on the auction block, let alone sold, until May when a company hired by the street's new owners contacted residents to ask if any were interested in buying back the rights to land immediately outside their homes.

Mr Cheng and Ms Lam are said to be looking for other ways to make money from their investment, including charging residents to park on their street or renting out the 120 parking spaces that line the road.

"I thought they would reach out to us and invite us in as new neighbours," Mr Cheng told the Associated Press.

"This has certainly blown up a lot more than we expected."

A seven-bedroom property on the street recently sold for more than \$17m and the real estate investor, who was born in Taiwan, said he "got lucky" with the auction two years ago.

"As legal owners of this property, we have a lot of options," he told the Chronicle.

"I'm a first-generation immigrant, and the first time I came to San Francisco I fell in love with the city.

"I really just wanted to own something in San Francisco because of my affinity for the city."

However, the street's residents have attempted to block the new landowners by petitioning the city's Board of Supervisors for a hearing to rescind the tax sale. The board has scheduled a hearing for October.

The homeowners association has also sued the couple and the city, seeking to block them from selling the street to anyone while the appeal is pending.

### **What is an Escrow Payment?**

When considering a new mortgage or refinancing a current mortgage, many lenders suggest paying your taxes and insurance through an escrow account.

What is an Escrow Account?

An escrow account ensures taxes and insurance are paid on time, as well as protects the lender from losses. While some lenders require escrow accounts, requesting one voluntarily is a great tool for budgeting large property-related bills. It creates small mortgage payments to avoid large property tax bills or insurances premiums.

What's the Amount of Your Escrow Payment?

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Escrow payments are calculated by estimating tax costs and house insurance for the year, then dividing the total amount by 12. For example, if the property taxes cost \$2,400 and a homeowner insurance and a mortgage policy cost \$1,200 per year each. By dividing the total amount (\$4,800) by 12 months, the borrower must pay \$400 each month through the escrow account. Although there is a fixed rate, the total amount of mortgage payments may change. This is due to increasing insurance premiums or property taxes.

#### Benefits of Using an Escrow Account

An escrow account creates a 12 month payment plan to pay off taxes and insurance. This provides more time and flexibility instead of requiring one large payment. Other benefits include avoiding late fees and the risk of your property insurance lapsing or your title collecting a lien for unpaid taxes.

#### Disadvantages of Escrow Account

In most cases, you do not have control of the money in an escrow account. The money in your escrow account will not generate any interest. Moreover, if your taxes or insurance policy increase, you must pay more each month, resulting in unexpected outflow of your cash.

### TEXAS - MAYOR ADLER: IT'S A STATE PROPERTY TAX

"Only four years ago, the State got one third of what the City got. Only three years ago, the State got one half of what the City got. And next year, for the very first time, the State will be taking more than what the City of Austin gets. So to be clear, property taxes are no longer a local property tax. From this day forward, let's call it what it really is. Ours is a state property tax. And the recent increases by the state of property taxes has been extreme, geometric, and irresponsible.

"Yet in this 'Alice in Wonderland' world, state leaders are blaming local governments for their property tax increases, and that is simply not true. It's not appropriate. As chairman [Dennis] Bonnen has said so clearly—chair of Ways and Means in the House—the attempt to cap local property taxes has nothing to do with property tax relief. To suggest otherwise is inaccurate, and it's harmful.

"If the legislature wants to do something about our increasing property taxes, they need to fix their increases in our property tax. They have to hold down this out of control state property tax that citizens and residents of Austin are paying. If the legislature wants to do something about increasing property taxes, they need to fix our broken school finance system. That's the only thing, the real thing, that people all over our state want our state legislature to do. And it appears to be the only thing they are not doing this special session."

### NEW YORK - The Inequality Of The New York City Property Tax System

James Nelson of Cushman & Wakefield sat down with Martha Stark, policy director for Tax Equity Now NY and former New York City finance commissioner to discuss the inequality of the New York City property tax system, how taxes are currently being calculated and how they should be calculated, and the implications for both residential and commercial space.

James Nelson: Martha, please tell us a about your coalition and its mission.

Martha Stark: Tax Equity Now in New York was formed earlier this year and is a group of all kinds of owners, apartment building owners, co-op owners, condo owners, all of whom cannot figure out New York City's property tax. Essentially, this group came together because they feel like the system is broken. It is increasingly harder to understand, but more importantly it has some inequities that really need to be addressed. We figured out that the best way to get changes would be to a file lawsuit. Elected officials, speaker, the mayor, everyone has been decrying how terrible the system is and difficult it is to explain but yet not doing anything at all. We feel like the court is an important tool and mechanism for both saying what the inequities are and which ones need to be addressed and then putting pressure or bringing pressure to make sure something different happens.

Nelson: That certainly makes sense. Where does the suit stand right now and what would it take for your group to prevail?

Stark: We filed the lawsuit on April 25 against the Department of Finance—my former agency—the State Office of Real Property Tax Services, which is an agency within the state department of taxation and finance, and then the City of New York, the State of New York and the mayor and the governor's offices. On July 7, the city and state filed a motion to dismiss the

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action, and we have until the end of August to respond to their motion to dismiss. We think the motion to dismiss was really not the way to go given how many people have said that the system is broken. It is certainly a litigation tool that people are using, but we think we are probably going to survive the motion to dismiss, and then we will get to the place where they file an answer and we get to discovery. It will take a little while but it is really important that it move forward.

Nelson: Tell us a little bit about how properties are currently assessed and then how would your group propose changing that.

Stark: Judge Lippman, former Head of the Court of Appeals here in New York, is a part of the litigation team. He is at Latham & Watkins and he explains it pretty simply. He says that essentially the property tax is supposed to be based on market value and that your taxes should bear some resemblance or some connection, some relationship to what your market value is. In its simplest form the City is supposed to estimate what is market value. We have four different tax classes. First class is one, two and three family homes. The second class is apartment buildings, rentals, co-ops and condos. Class three is utility property and class four is commercial property.

In 1981, they created those four classes and they have one rule saying that all property within each class had to be uniform within that class. What is interesting about that is that there is no uniformity, and uniformity is a pretty straightforward concept. It actually has some technical ways that you calculate it. From a taxation perspective, it means that like properties should have like taxes. If my house is worth \$700,000, I should be paying the same tax as someone else who has a house that's worth \$700,000 and that is not how this system works. In fact, we looked at several properties that sold for \$750,000 in one year. In one instance, the tax was as low as \$1,500, and in another instance, it was as high as \$20,000. Next we looked at several properties that pay \$4,300 in taxes. The range of value for these properties was from \$150,000 to \$9 million. There is absolutely no uniformity in the system.

Second thing that I just want to point out is the homeowner class within the rental apartment building class. There is another rule in the city that says co-ops and condos cannot be valued based on their sales price. Instead, you have to find a comparable rental property. For example, a Central Park West property selling for \$30 million is getting compared to a rental property, because those co-ops and condos were built during rent regulation time. They are actually finding a rent regulated apartment to compare them to. There are many instances where the Department of Finance actually values the entire building for less than what one unit sells for in a building. That creates a huge problem in the apartment building class because it means that rental buildings are actually subsidizing these high valued co-ops and condos. That is a major issue.

Nelson: It seems like you have really landed on something that for once landlords and tenants can agree on, the taxes are too high now. I know part of the suit also talks about the impact on minority neighborhoods and how they have also faced an unfair amount of the tax burden. How has that come to pass?

Stark: There are people paying 25 to 35 percent of their gross income for taxes alone. Within the homeowner class, because it is a classified system, there are rules that limit how much assessments can increase each year. I live in a co-op in Parkville where values have gone up a lot, but the values in Canarsie or Brownsville, where I grew up, are not going up that much. The assessments are able to keep up in Brownsville and Canarsie but not keep up in Parkville. As a result, that leads to places like Canarsie and Brownsville paying a much higher effective tax rate than places like Parkville.

The same thing is true again for rental property. There is no cap on how much the city can raise on taxes, and so they will raise your assessment consistent with, to some extent, your income going up. That also has created disparities. This notion of co-ops and condos not being valued based on sales price results in renters picking up that huge burden.

Nelson: Savills did a study showing the average tax per square foot for office product in Manhattan is \$16.40 whereas in San Francisco, it is \$5.75. The national CBD average is \$6. Most of the New York City property taxes in office buildings are pushed onto the tenants. Why is the New York City CBD almost triple the national average?

Stark: In Manhattan, commercial properties have a property tax and a commercial rent tax that gets paid by tenants and such. The commercial rent tax was implemented when the city bumped up against its property tax limit. There is a cap on how much tax revenue the city can raise from the property tax.

Manhattan rents, especially in Midtown, were at \$100 dollars which is also two and a half to three times what the average was around the rest of the country. But, Manhattan is the place to be and I think you raise legitimate concerns about what is the appropriate burden of taxes for everybody.

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## Michigan Supreme Court Clarifies Test for Charitable Exemption from Property Taxes

- In an Opinion issued on June 28, 2017, in *Baruch SLS, Inc v Tittabawassee Township* (Sup. Ct. No. 152047), the Michigan Supreme Court clarified the third prong of the six-part test set forth in *Wexford Medical Group v City of Cadillac*, 474 Mich 192; 713 NW2d 734 (2006), which governs charitable institutions seeking an exemption from real and personal property taxes under MCL 211.7o and MCL 211.79.
  - In *Baruch*, the taxpayer operated an adult foster care facility with an “income based” program, which required applicants to have made a minimum of 24 full monthly payments before being eligible for a reduced room rate. The Michigan Tax Tribunal denied the taxpayer’s request for a property tax exemption, finding that the taxpayer failed to satisfy the third prong of *Wexford Medical Group*, which requires that the charitable institution “does not offer its services on a discriminatory basis by choosing who among the group deserves the services, but rather, serves any person who needs the particular type of charity.” The Tribunal found that the taxpayer’s admissions policy differentiated between individuals with and without the ability to pay and therefore offered its charity on a discriminatory basis in violation of the third factor. The Court of Appeals affirmed that portion of the Tribunal’s judgment, also finding that the taxpayer’s policy was discriminatory.

The Michigan Supreme Court reversed the Tribunal and Court of Appeals for further proceedings and offered clarification of the third factor. Although the Court noted that the language of *Wexford* was “susceptible” to the lower courts’ interpretation, the Court held that the third factor “ban[s] restrictions or conditions on charity that bear no reasonable relationship to an organization’s legitimate charitable goals.” This “reasonable relationship” test is to be construed “quite broadly to prevent unnecessarily limiting the restrictions a charity may choose to place on its services.” By way of example, the Court explained that a low-cost daycare could “reasonably prioritize the applications of single-parent families,” but likely could not prioritize the applications of families who cheer for a certain baseball team – unless that criterion is reasonably related to a permissible charitable goal (i.e., if there is a scholarship funded by that baseball team’s charitable foundation).

The Court also discussed how factors four and five should be addressed. The *Wexford* factors with the nuances of the *Baruch* decision are summarized as follows:

1. The institution must be a nonprofit institution.	Baruch does not modify this factor.
2. The institution must be organized chiefly, if not solely, for charity.	Baruch does not modify this factor.
3. The institution does not offer its charity on a discriminatory basis by choosing who among the group it purports to serve deserves the services but rather serves any person who needs the particular type of charity being offered.	Baruch held that this factor is “intended to exclude organizations that discriminate by imposing purposeless restrictions on the beneficiaries of the charity.” The correct interpretation of this factor is that a charitable institution may not impose restrictions or conditions on charity that “bear no reasonable relationship to an organization’s legitimate charitable goals.”
4. The institution brings people’s minds or hearts under the influence of education or religion; relieves people’s bodies from disease, suffering, or constraint; assists people to establish themselves for life; erects or maintains public buildings or works; or otherwise lessens the burdens of government.	Baruch held that “whether a charitable institution has a permissible charitable goal is evaluated in factor four[.]” If the institution’s restriction is reasonably related to a goal that meets this standard, then it is acceptable under factor three.
5. The institution does not charge for its services more than what is needed for its successful maintenance.	Baruch held that the analysis of a charitable institution’s fees should be conducted under this factor, not factor three.
6. The institution need not meet any monetary threshold of charity if the overall nature of the institution is charitable.	Baruch does not modify this factor.

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