



UNITED STATES - November 2017

ALASKA COUPLE LOOKS TO CHANGE DAMAGED PROPERTY TAX LAW 1

WISCONSIN - WALMART SUES CITY OF SHEBOYGAN OVER 2017 TAXES..... 2

WASHINGTON - BP TAX APPEAL CREATES CHALLENGES FOR LOCAL TAX DISTRICTS..... 3

PENNSYLVANIA - UNDER THE RADAR: LEGISLATION SEEKS TO BAR 'SPOT ASSESSMENTS' OF PROPERTIES..... 4

WEST VIRGINIA - POWER UTILITY ASKS TO ROLL BACK ITS PROPERTY TAX ASSESSMENT 5

NEW YORK - PROPERTY TAX EXEMPTION SOUGHT FOR PRIVATE WATER UTILITY 5

N.Y. PROPERTY LEVIES ARE AN UNFAIR MESS: FIX A TERRIBLY INEQUITABLE SYSTEM NOW..... 6

ILLINOIS - ASSESSOR’S OFFICE DEFENDS PRACTICES FOR ASSESSMENTS 8

ILLINOIS - TAX APPEALS FILED FOR NUCLEAR PLANT AND FORMER PRINTING PLANT 8

WILL CALIFORNIA GET DESPERATE ENOUGH TO MESS WITH PROPOSITION 13? 10

MISSOURI APPEALS COURT RULES IN FAVOR OF ELECTRIC COMPANY 11

MICHIGAN - REWORK PROPERTY TAXES IN DETROIT 12

NEW MEXICO COUNTIES LOSING OUT ON OIL AND GAS TAXES 12

DARK STORE REPORT DISMISSED BY REAL ESTATE LAWYERS..... 13

NEW YORK - WHICH HAS A BETTER PROPERTY TAX RATE: A LUXURY CONDO IN TRIBECA, MANHATTAN, OR A LUXURY CONDO IN PRIME CENTRAL LONDON? 16

OPPONENTS SPAR WITH DE BLASIO OVER HIGH PROPERTY TAXES..... 16

THE BEFORE AND AFTER EFFECTS OF FLOODING ON PROPERTY TAXES..... 18

NJ TAX COURT HOLDS FREEZE ACT DOES NOT APPLY UNLESS ASSESSMENT IS ADJUDICATED 18

[Alaska couple looks to change damaged property tax law](#)

An Alaska couple is looking to change a law that requires people to pay taxes on damaged property.

Ron and Jane Hunt lost a house in a fire Jan. 8. Ron Hunt says he went to the Fairbanks North Star Borough to report the fire.

“I was expecting to get a property tax adjustment,” he said.

Ron Hunt learned he would be required to pay his full tax bill — \$6,977.92 — on the North Pole property, even though the house, a rental, and an attached shop were reduced to rubble. The Hunts live next door to the rental property but continued to use the shop.

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.

"I was stunned," Hunt said. "The building wasn't there. We were taxed on something that didn't exist anymore. ... Everybody needs to know how unfair it is."

Ron Hunt urged the Borough Assembly to change the law. But he said the measure that passed Sept. 28 doesn't offer meaningful assistance.

Alaska law allows municipalities to offer disaster tax relief, but the borough had no mechanism to offer the tax relief until recently after Assemblymen Lance Roberts and Guy Sattley proposed it, the Fairbanks Daily News-Miner reported .

"I had no idea until a constituent wrote us," Roberts said as he explained his disaster tax relief proposal at an assembly committee meeting in September. "I immediately jumped on this. Government should always have some flexibility and be merciful to its citizens, especially those in extremely bad circumstances."

Roberts and Sattley proposed a simple fix, they said. After a disaster, such as a fire, the borough reassesses the property and "we kick back the taxes," Roberts said.

The measure adopted by the assembly was a substitute by Borough Mayor Karl Kassel, who said he was concerned about the borough being hit by a massive disaster and going bankrupt providing property owners with tax relief.

His proposal, which eventually was adopted, added requirements including that the disaster tax relief would apply only to uninsured property and that it would exclude major disasters declared by the president, the governor or the borough mayor.

The tax relief, which would be prorated from the date of the disaster, is capped at \$10,000 and the loss to the taxpayer must exceed \$30,000.

When the measure went before the assembly for approval, Roberts amended it so that commercial and rental properties could qualify. But an amendment to allow relief for insured properties failed.

Under the new law, Ron Hunt would not qualify for tax relief for his destroyed rental property and shop. Hunt said the fire was caused by a woodstove mishap.

He said the tools in his shop were not insured — a mistake on his part — and that the check from the insurance company for the house and shop didn't completely cover his loss.

Hunt said he plans to wait a year until he rebuilds to avoid a year of property taxes as a way to compensate himself for paying taxes on the property that burned.

WISCONSIN - Walmart sues City of Sheboygan over 2017 taxes

In its third such "Dark Stores Theory" court filing in Sheboygan County this year, Wal-Mart Stores on Wednesday sued the City of Sheboygan over its property tax bill for 2017.

In what's become a familiar legal strategy, the company claims the city's assessor overshot the value of a south-side outlet by several million dollars. The store, located just off South Taylor Drive, was given a \$13.265 million assessment for 2017, per the filing. But the company — it also goes by Walmart — claims it should have been no more than about \$9.689 million.

"The 2017 assessment of the Property was excessive," the company claims in its suit. "As a result, the tax imposed on the Property for 2017 was excessive."

City Attorney Charles Adams wasn't available for comment by phone Wednesday.

Sheboygan Common Council member Mary Lynne Donohue said she hadn't seen a copy of the suit yet.

Still, she said, "I'm certainly not surprised, given their previous activity in the Town of Sheboygan and other locations."

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.

It's the third Dark Stores-type suit the Arkansas-based retail giant has filed in Sheboygan County in the last few months. The company is also suing the city of Plymouth and the Town of Sheboygan, where it also operates stores.

In all three cases, Walmart has claimed local assessors overshot stores' fair market value by millions of dollars.

A store in the City of Plymouth, for instance, was valued at \$11.635 million, though Walmart in October claimed it should have been no more than \$8.5 million. And in the Town of Sheboygan, an assessor valued a local store at \$15.6 million, a figure the company since July has tried knocking closer to \$9.9 million.

The assessment appeals are part of a wave of "Dark Store Theory" lawsuits targeting municipalities across the country. All mark efforts by mainly big-box retailers to reduce their property values — and, by extension, their tax bills.

The litigation trend gets its name from clashing philosophies over how cities, towns and other governments should tax retail properties. Companies have pushed to have actively operating outlets assessed as though they were empty, or "dark." Governments have pushed back, though, claiming the efforts to reduce bustling business' property tax bills threaten to raise taxes on nearby homeowners.

A reporter on Wednesday wasn't able to try calling the Milwaukee-based law firm representing Walmart in the latest suit until after the office had closed for the day.

But Robert "Bob" Hill, the attorney whose Minnesota-based law firm is behind all three Sheboygan County suits and who has worked with Milwaukee attorneys on the cases, on Wednesday described as "unfair" most assessments on Walmart stores.

Hill said most of the retailers' up-for-sale buildings typically sell for about \$22 a square foot, and he challenged assessments that set operating stores' values at higher figures.

"The big box retailers' buildings are selling for a fraction of the assessments," he said, "and the assessors are literally ignoring valid market sales because they want to prop up their tax base by having these guys pay more than what they can sell their building for."

Elected leaders in both Sheboygan and Plymouth this year approved separate resolutions urging state lawmakers to clarify how business properties could be assessed.

Donohue, the Sheboygan Common Council member and its former president, brought that matter up again Wednesday, noting the most recent suit showed why legislation addressing Dark Store issues in Wisconsin "is so important for us."

"We try to be good partners, but this isn't really good partner behavior," Donohue said. "But, you know, it's what they do. So we'll have to defend as best we can and see where we take it."

WASHINGTON - BP tax appeal creates challenges for local tax districts

A few years ago, BP Cherry Point Refinery officials concluded their property appraisal from the Whatcom County Assessor's Office was too high and they were paying more property taxes than they needed to. So they filed an property appraisal appeal with Whatcom County and as a result paid less property taxes for a few years while the dispute went on.

The smaller BP tax payments were significant enough to cause property tax rates in tax districts such as Whatcom Fire District 7 (WCFD7) to increase noticeably to make up for BP's smaller than anticipated contribution.

The County reached a property valuation settlement with BP in mid-2016. That meant, with BP back returning to paying their full property tax obligations, those tax districts with higher rates before would likely see lower rates in 2018.

Another result of the BP settlement, back taxes, owed by BP for those years when they were not paying their full obligation, arrived as a windfall for those tax districts that had been impacted. This means even lower tax rates are expected for 2018.

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.

That's the simple explanation. It gets more complicated when considering the City of Ferndale (COF) was annexed into WCFD7 in 2016. Prior to that, the COF had been contracting for and paying, like any other property owner, for WCFD7 services on behalf of the citizens of Ferndale.

The COF says while they were contracting for WCFD7's services, they paid \$160,000 more to WCFD7 than needed due to BP reduced tax payments. Now with the settlement in place, COF officials feel they should recoup this overpayment. According to officials involved, Washington State law prohibits WCFD7 from simply writing a check to COF for the overpayment.

So, at tonight's City Council meeting, COF staff hope the Council will approve the 2018 Property Tax Ordinance that includes not only the standard increase of 1% (approximately \$11,000) but also an additional one-time \$160,000 increase. The justification being property tax payers within the COF tax district will be seeing a net reduction in property taxes in 2018. This net benefit to taxpayers throughout the WCFD7 tax district includes the COF's overpayment to WCFD7 and this will result in getting that portion back.

This additional 'discretionary amount' added to the property tax levy will recoup the \$160,000 from City tax district taxpayers while leaving them with the remaining net reduction to property taxes influenced by the BP settlement.

The COF does not have jurisdiction to implement such a tax levy upon the whole WCFD7 tax district where the net benefit of the \$160,000 overpayment by COF plus millions in back taxes from BP will result in the tax rate decreases. But they can do so within the COF tax district.

Looking even further into the future, since such windfalls happen only once, the property tax rate decreases are not likely to reoccur in the next year. As a result, there will be another correction (presumably an increase) to effected tax district rates as they return to 'normal.'

PENNSYLVANIA - Under the Radar: Legislation seeks to bar 'spot assessments' of properties

In this series, we take a look at some of the noteworthy pieces of legislation that have not received much attention statewide.

HARRISBURG — While the state Legislature considers how or whether to replace property tax, there's another element to the tax that is creating controversy.

Legislation in the state House would make it harder for school districts and other local taxing bodies to do "spot assessments" that seek to get an updated estimate of the value of a property after it's been purchased.

"The practice literally has the effect in some cases of hammering a property owner with a huge tax increase after he has decided to buy the property and participate in our state economy," state Rep. Warren Kampf, R-Chester County, said in a memo to other lawmakers. "It strikes me as one of the most anti-competitive government practices in existence today."

In a Thursday interview, Kampf said he took up the issue after being alerted to it by a constituent.

"As I looked at it, it really just outraged me," Kampf said.

Steve Robinson, a spokesman for the Pennsylvania School Board Association, said the districts' freedom to challenge whether a property owner is paying the proper amount in tax is a fairness issue. Property owners have the same right to go to court to try to convince a judge that they are paying too much in property tax, if they think their assessment is too high.

Since most counties haven't updated their countywide assessments, school districts are the only ones in a position to go after property owners who may be paying too little in tax, said John Callahan, chief advocacy officer for the school board group.

"We're skirting around the issue" by looking at the school board's actions rather than the underlying problem of the need to get property assessments updated across the state, Callahan said.

State Rep. Mark Longietti, D-Mercer County, noted that this controversy has been festering for years. In 2008, the Legislature passed a series of bills similar to Kampf's but they were all vetoed by then-Gov. Ed Rendell.

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.

Rendell, at the time, argued that all property owners would be forced to pay more to compensate if school districts and cities and counties couldn't seek the spot assessments to collect more from under-valued properties.

Longietti said that while commercial appeals have gotten a lot of the attention, the issue has at times gotten more scrutiny when school districts have gone after residential homeowners.

In those cases, people who had purchased homes, while factoring in the current cost of the property taxes were "shocked" when they got higher tax bills because the district had appealed their assessments based on the amount paid to purchase the home, Longietti said.

Efforts to make spot assessments more palatable by limiting them to commercial property appear to be illegal based on a Supreme Court decision handed down last summer, Kampf said.

That makes the need for his bill all the more obvious, he said.

His legislation was amended on the House floor to bar spot assessments only on residential properties and farms. But Kampf said he believes that based on the court decision, that amendment language would be unconstitutional.

Callahan said he's not aware of any school district that's yet tried to roll out a spot assessment plan guided by this type of threshold trigger.

WEST VIRGINIA - Power Utility Asks to Roll Back Its Property Tax Assessment

Appalachian Power Co. is asking to roll back its property tax assessment in West Virginia for the 2018 tax year, citing a combination of a mild winter followed by a mild summer that has hurt business.

"The utility business tends to be a weather business," Thomas Johnson, property taxes manager for Appalachian Power's parent company, told the state Board of Public Works on Thursday.

The company's net income is down 18 percent from 2016 so far this year because customers didn't crank up the heat or air conditioning as much as normal in the past year, Johnson said.

In making its tentative assessment, the state Tax Department assumed a 4 percent growth in income for the company, to about \$575 million, while Johnson said a fairer projection would be in the \$550 million range, The Charleston Gazette-Mail reported. That would reduce Appalachian Power's tentative assessed value and lower its property tax due to the state to under \$300,000.

Jeff Amburgey, director of the state Property Tax Division, told board members he'll review the request to appeal its assessment. Amburgey said he'll provide a written recommendation prior to the board's Dec. 14 meeting, where it is to give final approval to the 2018 assessments.

The Board of Public Works is made up of six statewide elected officials and the state superintendent of schools. The board must annually approve property assessments for all state utilities.

Appalachian Power was the only utility in the state to appeal its tentative property assessment.

NEW YORK - Property tax exemption sought for private water utility

Advocacy group wants state lawmakers to amend the law so that New York American Water can stop passing along those costs to ratepayers in Nassau County.

A Long Island group that has lobbied for lower water bills called Wednesday on state legislators to amend the law and exempt a private water utility in Nassau from paying property taxes, which account for a large chunk of customers' bills.

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.

The Long Island Clean Air Water and Soil group said New York American Water — the privately owned company based in Merrick that provides water services to about 325,000 residents in Nassau — passed along 100 percent of its property tax burden to ratepayers.

Dave Denenberg, director of the advocacy group, said property tax costs account for 40 percent to 70 percent of New York American Water's customers' bills. The tax exemption, he said, would significantly lower water bills.

"This simple amendment should be done before the end of the year because it will reduce our water bills by thousands of dollars in 2018," Denenberg said.

In recent months, the utility's customers in Nassau saw their water bills spike after the New York State Public Service Commission, a regulatory body, on May 18 approved its request for a four-year rate increase.

Residents, angry at high water bills, have waged protests against the company, and demanded a public takeover of the private utility to ensure costs are comparable to the much lower amounts in neighboring municipal water districts.

Assemb. Michael Montesano (R-Glen Head) said state law currently exempted private waterworks corporations in New York City from paying property taxes, and he was preparing legislation that would allow the Nassau County Legislature to opt in and exempt the utility from paying property taxes.

Municipal water authorities and water districts don't have to pay property taxes, and Montesano said his proposal would bring a measure of fairness.

Montesano said about 200 households in his district are serviced by New York American Water.

"I see it as an equal protection under our state constitution," Montesano said Wednesday. "People are not being treated equally."

State Sen. Carl Marcellino (R-Syosset) on Wednesday said he liked Montesano's proposal but needed to see the details. Some of Marcellino's constituents, including those in Glen Head and the Village of Sea Cliff, have seen their water bills more than double since last year.

"Conceptually it's not a bad idea," Marcellino said. "I've got to see the wording and see how it impacts everyone else. We're not just in the business of shifting taxes around."

Montesano said he planned to introduce legislation in January when lawmakers returned to work. If his bill passes the State Legislature and Gov. Andrew M. Cuomo signs it, the Nassau County Legislature must pass its own law to opt in.

"It's incumbent on Nassau to take action," Montesano said.

The Nassau Legislature's Minority Leader Kevan Abrahams (D-Freeport) said in a statement that he and his caucus would "most likely" opt in.

Presiding Officer Norma Gonsalves (R-East Meadow) did not return calls for comments.

Carmen Tierno, president of New York American Water, said if the company did not have to pay property taxes, it would stop passing those costs along to ratepayers.

N.Y. property levies are an unfair mess: Fix a terribly inequitable system now

Our city's property tax system is broken. For decades, political leaders, independent analysts, community groups and homeowners have decried it as unfair and irrational, and acknowledged that it imposes bills on New Yorkers that bear little relationship to actual property values.

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.

The system is also aggressively regressive, shifting the tax burden away from wealthier homeowners and onto the backs of lower-income property owners and tenants in working-class areas of the city. It imposes higher effective tax rates on rental buildings — in a city where more than two-thirds of residents are renters.

These inequities have widened and now penalize homeowners in slower-appreciating, predominantly minority neighborhoods.

Snapshots of property tax bills for different properties in the five boroughs show how out of whack our current system is.

Single-family homeowners on Staten Island and in the Bronx pay taxes at a higher effective tax rate than homeowners in Park Slope, Brooklyn, condo owners in Tribeca, and co-op owners along Central Park West.

In fiscal year 2015, homes that sold for \$775,000 had property tax bills ranging from just \$1,500 annually to as much as \$11,000. Another way to look at it: Properties that paid about \$4,300 in taxes had sales prices ranging from as little as \$500,000 to as much as \$9 million.

The city and state laid the foundation of its current property tax system back in 1981. At the time, policymakers protected some single-family homeowners from an immediate tax spike and from rapid property tax increases.

Co-ops built before a certain date were protected, too, in that most of them were former rental properties and the law required that they continue to be valued as if they were rental buildings and not based on sales prices.

Much about the city has changed since then. The number of co-op and condo apartments has grown rapidly; they now almost equal the number of small homes. Meantime, the city has gotten safer and neighborhoods have gentrified.

And the city has increasingly relied on property taxes as a source of revenue; the portion of city revenues from property taxes has jumped from 20% in 2001 to 30% in the last fiscal year.

But the original choices that were made created inequities that have only gotten worse with time.

True reform requires a massive, coordinated and sustained effort from officials in both New York City and Albany to untangle the patchwork of policy decisions that have brought us to the irrational and unjust position in which we find ourselves today.

Yet while legislators and local and state officials all recognize that the system is broken, no one has been willing to tackle this problem. That is why Tax Equity Now New York, a coalition of homeowners, renters, rental property owners, and civil rights and social justice organizations, filed a lawsuit against New York City and State in April.

On several occasions during the recent mayoral campaign, Mayor de Blasio said that he would deal with property tax reform after he was reelected.

But he maintains that the courts are the wrong avenue to address the problem. Further, the city Law Department has been fighting the lawsuit at every step now for several months, seeking to have it dismissed and using motions to delay its moving forward.

That's a bad approach. The right way forward is to acknowledge the problem that the lawsuit has exposed — while simultaneously demonstrating the courage to change our laws.

Band-Aids are not adequate anymore.

Let's be very clear: We who have filed suit don't want the courts to impose a solution on the voters, residents and taxpayers of New York. That is the job of the elected officials. Nor is the coalition of plaintiffs seeking financial remuneration from the lawsuit.

They are simply seeking to crystallize what the law requires, and ensure that New York City has a fair and rational property tax structure that does not shift the burden from the wealthy to the less affluent and to minority homeowners and renters.

The ultimate goal of the lawsuit is to end an unfair and arbitrary system. Rather than continuing to fight the lawsuit with motions and delay tactics, the mayor should welcome the effort

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.

ILLINOIS - Assessor's office defends practices for assessments

As deputy assessor for communications for the Cook County Assessor's Office (CCAO), please allow me to address recent inaccurate reports and misconceptions about property assessment in Cook County.

The Civic Consulting Alliance (CCA) is studying the assessment and appeal processes, including assessor's office procedures, assessment models, the Cook County Board of Review and other aspects. Cook County Assessor Joseph Berrios welcomed the CCA study.

The study's timing has been questioned, and Assessor Berrios was criticized for it. However, critics and the media have ignored the fact that the CCA does not report to the assessor. He has absolutely no authority over CCA's timetable.

To be clear, the assessor's only responsibility is to fully cooperate with the study. He continues to do so and provides study personnel with office space. Assessor Berrios respects the CCA study, which unlike others includes assessment professionals.

The accomplishments of the Berrios administration are disregarded. For example, it has six straight years of on-time assessments leading to timely tax bills. Previously, bills were late for 34 years.

On-time revenue for schools and other entities eliminates \$5 million to \$6 million countywide in monthly interest on borrowing while awaiting revenue. In the last 13 years before Berrios was elected, 39 late months accumulated. Berrios' zero late months saved taxpayers many tens of millions of dollars—and counting.

Past assessors left erroneous exemptions unchecked. Assessor Berrios designed the law through which he recovers this would-be lost money and returns it to school districts, communities and municipalities. To date, \$47.2 million has been billed.

More than a year ago, Berrios conceived and began to help pass legislation giving lower-income homeowners greater flat-rate, money-saving exemptions. The Berrios-engineered exemption expansion became law in August.

For appeals awareness, the CCAO has raised annual community appearances to 238, and 81 percent are in areas with lower-market homes.

None of these things were acknowledged in recent reports.

When discussing taxes, please keep in mind the important fact that assessors don't set tax rates. Also, the state equalizer has gone down dramatically since Joseph Berrios became assessor, an indication of fair assessments.

The Cook County Assessor's Office again states, unequivocally, that its estimated property values are fair and accurate. There is no rampant over-assessment of lower-market homes or under-valuation of higher ones.

Previous administrations employed the same assessment model we use, and they were not criticized. Berrios is criticized without regard for his tremendous improvements in the assessor's office—despite staff cuts of 31 percent.

The timing of the criticism is odd.

Some observers without assessment experience say Cook County should use a recently developed assessment model. In fact, after initial enthusiasm for that new model, we found that it did not work when full implementation was attempted.

With 47 years of public service, Joseph Berrios knows that assessing Cook County's 1.85 million properties is difficult. But he gets the job done, and he works to ensure fairness and to improve the system.

ILLINOIS - Tax appeals filed for nuclear plant and former printing plant

Among the 56 property tax appeals recently filed in Ogle County are two companies that protest their assessments almost every year.

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.

Exelon Generation Co., LLC has filed an appeal of the assessment of its Byron Generating Station, and Mt. Morris Business Park LLC has objected to the assessed value set for the former Quad Graphics printing plant in Mt. Morris.

Supervisor of Assessments Jim Harrison said the number of appeals filed is normal compared to other years.

“A few others were filed earlier, primarily residential, but those have been resolved with the township assessors,” he said. “This is a typical number, maybe on the low side in comparison to some years.”

The assessments were published in local newspapers in late September and the deadline to file an appeal was Oct. 30.

Exelon officials are asking that the current assessment of \$546 million is reduced to \$308.9 million.

The plant’s value, set this fall by Harrison, is identical to the amount set a year ago, which was upheld by the Ogle County Board of Review last January.

Attorneys for the utility company argued then that the plant’s assessment should decrease due to economic conditions and the plant’s age.

The two reactors came online in 1985 and 1987 and were licensed for 40 years. Both were granted 20-year license extensions in 2015.

This year Exelon paid \$37.6 million in real estate taxes to 11 taxing bodies, which include the Byron School District, Ogle County, Rockvale Township, Oregon School District, Oregon Park District, Byron Fire District, Rock Valley College, Byron Public Library District, Byron Museum District, Byron Forest Preserve District, and Kishwaukee Community College.

More than \$19 million of that went to the Byron School District.

The value of the plant has frequently been disputed throughout the history of the facility.

Currently several recent appeals are pending before the Illinois Property Tax Appeal Board.

Commonwealth Edison, which formerly owned the plant, filed its first tax in 1989 when the assessment was more than \$1 billion.

The following year, the affected taxing bodies formed the Ogle County Intergovernmental Agency Board to fight the tax appeals.

While most assessments are set at one-third of fair market value, a 1998 agreement between Commonwealth Edison and the taxing bodies dictates that only 48.15 percent of the nuclear plant’s fair market value will be used in determining its assessed value.

Mt. Morris Business Park LLC, Downey, California, which has no connection to the Village of Mt. Morris, purchased the printing plant property from Quad Graphics in 2015 and have filed annual appeals since then.

Company officials are appealing the assessment on only one of the three parcels that make up the plant site.

That parcel, where the large sprawling building is located, is assessed at \$895,912, identical to last year’s value.

The owners contend the parcel should be assessed at \$122,761, also the same as last year.

The two undisputed parcels are assessed at \$10,359 and \$200.

Affected taxing bodies include the Village of Mt. Morris, Oregon School District, Mt. Morris Township, Mt. Morris Fire Protection District, Ogle County, Mt. Morris Public Library District, and Highland Community College District.

The BOR has upheld previous assessments.

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.

Quad Graphics closed the printing plant in 2011, and have used it as a warehouse since then, renting it from the current owners since it changed hands.

Among the other tax appeals filed are one from Illinois River Energy LLC for its ethanol plant in Rochelle, and Generation at Neighbors its rehabilitation and skilled nursing facility in Byron.

Illinois River Energy is asking for the ethanol plant's assessment of \$21.8 million to be cut to \$10 million.

Neighbors is asking that its assessment of \$2.7 million is cut to \$698,660.

Will California Get Desperate Enough to Mess With Proposition 13?

Depending on where you stand politically, Proposition 13 is either the cause of or solution to all of California's problems.

The 1978 ballot measure places strict limits on property tax increases by locking in a home's assessed value at its sale price. That means that if you bought a \$400,000 house 12 years ago (lucky you!), you're still paying taxes today on a \$400,000 house — even though it's worth \$1.2 million.

Proposition 13's supporters say it protects middle-class homeowners by ensuring predictable property taxes; its opponents say it has decimated the state's tax base and budget for public education. But since it passed, it's been untouchable. As Gov. Jerry Brown said in 2014: "Proposition 13 is a sacred doctrine that should never be questioned."

But these are desperate times for the great state of California. With the Republicans in Washington poised to enact a tax cut that largely benefits corporations and millionaires, some are wondering if California should be taking matters into its own hands by rolling back the once-sacred Proposition 13. A group calling itself the Make It Fair coalition wants to repeal the parts of Proposition 13 that protect commercial and industrial properties from tax increases (residential and agricultural properties would be untouched).

The group hasn't said whether it intends to try to get its proposal on the 2018 ballot.

"There's no decision that's been made about whether or not a ballot measure is going forward," says Mac Zilber, Make It Fair's political consultant. "We only want to move forward if we feel like we're in a position to change this once and for all. Whether that is 2018 or legislatively, we want to see what the best pathway is."

Another proposal, by the California Association of Realtors, would expand Proposition 13, allowing homeowners who sell their house and buy a new one to carry over part of their property tax savings to their new home.

The idea is actually an expansion of an expansion. In the 1980s, people started to worry that Proposition 13 was keeping senior citizens who wanted to downsize from selling their homes and moving into condos. So voters passed Propositions 60 and 90, which allow anyone over 55 who's buying a new home of equal or lesser value to keep some of the Proposition 13 tax savings.

Now, the California Association of Realtors wants to extend that benefit to people of all ages, buying new homes of all values.

The group's top lobbyist, Alex Creel, told the Los Angeles Times: "A lot of people kind of feel locked into their properties. ... This will free up those folks." (The association did not return our phone calls requesting a comment.)

The idea is a pricey one. According to the state's Legislative Analyst's Office, the proposal would cost cities, counties and school districts "hundreds of millions of dollars per year in the near term, growing over time to a few billion dollars per year."

Lenny Goldberg, executive director of the California Tax Reform Association, who's part of Make It Fair, says there's a much bigger problem with the proposal.

"Here's the deal: It completely screws young people and new home buyers." —Lenny Goldberg, executive director of the California Tax Reform Association

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.

"That is one of the worst initiatives I've ever seen," Goldberg says. "Here's the deal: It completely screws young people and new home buyers."

He adds: "Not only does it benefit longtime homeowners who already benefit the most from Proposition 13, it freezes out new home buyers."

Why? Because longtime homeowners would be able to afford a higher mortgage, since they'd be saving money on property taxes. First-time home buyers, by comparison, would have less purchasing power.

"It makes housing less affordable rather than more affordable," Goldberg says. "What a really bad idea."

Richard Close, president of the Sherman Oaks Homeowners Association (who helped pass Proposition 13), disagrees with Goldberg's analysis.

"The biggest problem that first-time home buyers have is that too many people refuse to sell smaller homes, which is usually what they're looking for," Close says. "People are not selling their homes. The prices of homes depends on supply and demand. This would have the benefit of making it easier to sell and buy homes. So I favor the concept."

He adds: "My concern is that once you start tinkering with Proposition 13, what is the next change gonna be? Would this measure be an excuse for other changes that may not be so beneficial?"

Missouri appeals court rules in favor of electric company

The Missouri Court of Appeals has ruled against a county in its dispute with an electric company regarding property depreciation.

The initial dispute was in 2013 between Ameren Missouri and 16 counties, including Cape Girardeau County, said Bob Adams, the county's assessor.

Court documents show the main issues involved the methodology used to determine valuation for tax purposes resulting from depreciation.

Ameren argued the county assessment valued natural-gas distribution lines too high and wanted a tax reduction, the Southeast Missourian reported .

A state tax commission changed Missouri's valuation processes in 2013, requiring natural-gas companies to report real and personal property for valuation and assessment. Before 2013, depreciation was not applied to property value, but that year Ameren submitted a report different from the county's assessment.

Court documents show Adams questioned Ameren's figures and the tax commission agreed.

A trial judge ruled in favor of Cape Girardeau County in 2016, concluding the county assessor applied a "depreciation of over 50 percent."

Ameren appealed, saying the commission was wrong in agreeing with the county assessment because Adams made no deduction for depreciation in his assessment. The state appeals court ruled Tuesday in favor of the company.

Adams said the decision won't significantly affect the public.

"When this whole thing started, the first question we asked (when) Ameren wanted this reduction was, 'Will you reduce the rates to the citizens in our community, if you're going to get a significant tax reduction?' They said no, it will not affect rates," Adams said.

Adams said his office plans to appeal to the Missouri Supreme Court.

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.

MICHIGAN - Rework property taxes in Detroit

After years of crisis, Detroit's housing market is finally on the upswing. Foreclosures are falling and house prices are rising, following a period from 2011-15 in which 1 in 4 houses in Detroit was foreclosed on. But a crucial root cause of these problems remains: the system that Detroit uses to assess property values for tax purposes, which is used in most of the U.S., is fundamentally flawed. These flaws have been particularly devastating in the cycle of decline and renewal Detroit has undergone.

In a recent paper, Bernadette Atuahene and Timothy Hodge argue that unfair and illegal property assessments were a major cause of the foreclosure crisis. Tax assessments were not updated as Detroit housing prices fell sharply in 2008, so for many years homeowners were charged property taxes far in excess of legal limits. Yet authorities were not simply malicious: keeping assessments accurate is costly. A comprehensive property value reassessment started in 2014, the first such project since the 1950s, cost the Detroit government almost \$9 million. And the government loses out on property tax revenue whenever assessments decrease. Should we be surprised that officials may not have exerted themselves to update assessments downward?

We suggest an alternative assessment system, first proposed by University of Chicago economist Arnold Harberger: instead of making assessments the responsibility of local government, homeowners could be responsible for assessing the value of their own properties. Under this system, all property owners would simply declare the market values of their properties each year, and pay taxes based on these self-assessed values. Tax foreclosure would be eliminated, and the government would only be allowed to acquire property by purchasing it from owners at their self-assessed values, perhaps paying an additional premium of 30-50 percent.

This system would eliminate the need for third-party assessors. Assessments for all properties would be updated by homeowners annually (or more frequently if the owner desired), so assessments would quickly adapt to changes in local market conditions without the need for government intervention. Self-assessed values would be public, so assessment would effectively be crowdsourced, as homeowners would be able to set appropriate assessments based on their neighbors' assessments, recent house sale prices and their own experience. Homeowners who want to sell their houses could announce valuations somewhat lower than market values; this would reduce their tax payments, and the government could target these houses for purchase and redevelopment.

Self-assessment could first be implemented on a limited scale, focusing on blighted neighborhoods where accurate assessment is difficult and costly. This system could even speed up government efforts for neighborhood revival. Rather than taking tax-delinquent properties for demolition after many years of neglect and decay, the government could simply buy out vacant properties in a neighborhood based on owners' self-assessed values. Owners would be compensated at a premium over their valuations, and nearby homeowners would benefit from redevelopment of vacant properties. This would also prevent absentee landlords from repeatedly repurchasing delinquent properties during foreclosure auctions, charging rents without paying property taxes.

The experience of Detroit in the past few years has shown that the property assessment system is fragile, and can fail catastrophically in times of housing market distress. Self-assessment is a simple alternative that would reduce costs, eliminate the need for discretionary government intervention, make eminent domain fairer and put the power and responsibility for property assessment in the hands of homeowners themselves.

New Mexico counties losing out on oil and gas taxes

Self-reporting system costing taxpayers

Local governments in New Mexico's oil and gas country are losing millions of dollars in revenue because energy companies are not telling county tax officials about drilling rigs, miles of pipeline and other assets, according to an appraisal expert.

Equipment that should be taxed is missing from the tax rolls, said Jerry Wisdom, who owns Total Assessment Solutions Corp., which has done work valuing energy company assets in Rio Arriba, Eddy and Lea counties. He testified recently before a panel of state lawmakers.

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.

Wisdom's appraisers drive thousands of miles to locate gas pipelines, rigs and other equipment. They then cross-check county records to see if the assets are being reported and properly taxed. Even equipment that is mobile is supposed to be reported as taxable property while operating in New Mexico.

The Santa Fe New Mexican reported that if various assets are not reported or are underreported, then homeowners and other businesses end up paying higher property tax bills. For schools, colleges and hospitals, which collect a set rate on the value of all taxable property, money is actually lost, so there is less to cover bond debt or pay for services.

"From a fairness standpoint, we have a huge problem here," said Sen. John Arthur Smith, D-Deming, who chairs the Senate Finance Committee.

Like some other states, New Mexico relies on a self-reporting method since county property appraisers do not have the staff or the expertise for on-site inspections of all machinery and equipment.

Wisdom said that honor system is not working for New Mexico counties at a time of record crude oil production.

"We deal with these companies, and we know how they report property," Wisdom told the Taxation and Revenue Stabilization Committee. "It's all self-reporting; this is the process we go through to find these items. These omissions are creating an inequity among the other taxpayers."

A map presented to lawmakers showed the number of rigs operating in Eddy County on Jan. 1 of each year from 2007-16. Of 318 rigs, just 111 were reported as personal property and taxed.

Data for Lea County showed that of 247 operating rigs, 136 were omitted from the tax rolls.

As for natural gas compressors in Eddy County, 623 were inspected, but half were not reported for tax purposes.

The lawmakers were also told that the state Taxation and Revenue Department's valuation table guideline for counties has not been updated since 1978, while the cost of new drilling rigs has nearly doubled.

So even in cases where assets are being taxed, local governments are not assessing the equipment at full value and are losing out on tax money as a result.

The state general fund gets a small amount of property tax revenue, less than 5 percent. But the issue came to the Legislature because of concerns that assessors are not receiving support from county commissioners to hire the staff and experts they need so the taxes can be collected.

Smith agreed that no one at the county level is trained to do such appraisals.

"We need to be giving local governments the tools they need," he said. "Shame on county elected officials not stepping to the plate to provide those resources to county assessors. If you escape paying your fair share, that burden is passed on to the residential user."

Dark Store Report Dismissed by Real Estate Lawyers

Real estate attorneys are raising questions about the integrity of a recent white paper report by an association of property assessors that pokes holes in the so-called "dark store" theory of valuing big-box retail stores.

Stephen Paul, president of American Property Tax Counsel (APTC), said his organization is "extremely concerned" about the International Association of Assessing Officers' (IAAO) position paper entitled "Commercial Big-Box Retail: A Guide to Market-Based Valuation." Paul said the paper ignores long-established standards in real estate law and adopts a "legally deficient" rationale as it provides guidance to local assessors charged with developing market value estimates for big-box retail properties in their jurisdictions.

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.

“We feel it is intellectually not appropriate,” Paul, a partner in the Indianapolis office of Faegre Baker Daniels LLP, told Bloomberg Tax Oct. 30. “Around the country assessors are taking this paper, which is deficient legally, and trying to get it introduced in court proceedings as if it is some authority, which really it is not.”

Paul’s criticisms build on formal comments submitted by APTC over the summer as the IAAO report was being developed. APTC criticized the Kansas City-based assessors’ organization for developing a “misleading” and “activist” document that would likely fuel additional litigation over the valuation of big-box retail properties.

Retailers adhering to the dark store valuation theory argue that their big-box stores should be valued as if vacant, or dark, and available for sale or rent to a future hypothetical property buyer. Major national chains including Lowe’s Cos. Inc., Home Depot Inc., Walgreen Co., and Wal-Mart Stores Inc. have found success cutting their local assessments by filing hundreds of property tax challenges, particularly in Midwestern states.

Assessors’ Viewpoint

In contrast, the IAAO paper guides assessors to base their appraisals on a property’s current use as a functioning, occupied store. Moreover, the IAAO paper contends sales of dark properties can’t be used for comparison purposes to assign a value to an operating big-box property.

“An appraiser’s conclusion of the market value of a big-box property should reflect the actual condition of the property on the date of valuation, including whether the property is occupied or vacant,” the report states. “If the property is occupied, whether by an owner or a tenant, the property should be valued as occupied. If the property is vacant as of the date of valuation, then the market value conclusion should arrive at a value as vacant.”

Dorothy Jacks, president-elect of IAAO and property appraiser for Palm Beach County Florida, said the association hasn’t received any formal response to the position paper since its release on Oct. 5. While criticisms were anticipated, Jacks said IAAO sought only to summarize current legal doctrines to assist government assessment professionals in hundreds of taxing jurisdictions across the country.

“Really, these are just reinforcing standard appraisal practice,” Jacks told Bloomberg Tax. “I think that’s really what the paper does. Using well-defined appraisal techniques to value these properties, as with all properties, is the best approach.”

‘No Official Position’

Despite the APTC’s criticisms, it wasn’t immediately clear how major real estate appraisal organizations are viewing the IAAO report.

Paula Douglas Seidel, a spokesperson for the Washington D.C.-based Appraisal Foundation, said the foundation has “taken no official position on the IAAO report.” She added the foundation has no current plans to express views on the report.

The Appraisal Foundation is the nation’s leading organization for valuation professionals and seeks to ensure independent and objective real estate appraisals by supporting educational programs and professional standards.

Similarly, Ken Chitester, a spokesman for the Chicago-based Appraisal Institute, said his organization hasn’t issued any official views on the IAAO white paper. The institute, however, is working on its own guidance document examining big-box valuation methodology.

The Appraisal Institute represents nearly 19,000 real estate professionals in 60 countries. The institute seeks to advance professionalism and ethics among real estate professionals through advocacy and professional development programs.

Paul expressed concern the IAAO report would be used as a political document not only in court rooms, but in state capitols. He said assessors and municipal leaders might use the report to lobby for statutes that modify state property tax codes to squeeze additional tax dollars from retailers.

Such reforms are being discussed in Michigan and Wisconsin.

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.

The badger state is currently debating legislation that would limit a retailer's ability to apply the dark store theory by requiring strict adherence to generally accepted appraisal methods. The proposal is receiving strong support from mayors, city managers, and municipal groups, which argue big-box retailers are using legal loopholes to minimize their property tax obligations.

WEST VIRGINIA - State court chief justice pens harsh dissent in property tax case

West Virginia Supreme Court Chief Justice Allen Loughry II this week didn't mince words in his dissent of a 3-2 ruling that the parts inventory at a Bridgeport jet engine repair facility weren't exempt from being taxed.

In the case of Pratt & Whitney Engine Services vs. the State Tax Commissioner of West Virginia, the court ruled parts at the Pratt & Whitney facility were taxable under state law and did not qualify for exemptions under the Freeport Amendment in the West Virginia Constitution.

Loughry and Justice Margaret Workman dissented from the majority opinion, saying the property at the facility did qualify for an exemption under the amendment.

Specifically, Loughry wrote in the dissenting opinion that the justices ruling in the majority disregarded the plain language of the amendment and the majority's "analysis is devoid of even the most rudimentary exercise in logic."

The Freeport Amendment exempts certain personal property of inventory and warehouse goods from taxation, according to the majority opinion penned by Justice Menis Ketchum II. Robin Jean Davis and Beth Walker joined Ketchum in the majority.

In the dissenting opinion, Loughry called the majority justices' assessment of the amendment "dubious" and said their reasoning in applying it in the Pratt case was "obtuse" and "best reveals the majority's result-oriented handling" of the case.

In 2015, an employee at Pratt & Whitney requested the Harrison County assessor review parts at the facility and determine whether they were exempt from property taxes.

The assessor determined the items were taxable, and an employee at the state Tax Commissioner's Office came to the same conclusion in another review.

In a bench trial in April 2016, a Harrison County circuit court judge upheld the assessment that the parts were taxable when Pratt & Whitney appealed the tax commissioner's conclusion.

The Supreme Court justices ruling in the majority said the intention of the Freeport Amendment was to promote the warehousing industry in the state.

"The plain language of the Freeport Amendment and its enacting statutes provide a straightforward statement of its application: the tax exemption applies to property or goods delivered 'from a point of origin outside the state to a warehouse, public or private, within the state for storage in transit to a final destination outside the state,'" Ketchum wrote.

Because parts at the facility are used to repair or replace jet parts — jet engines, for example — means the parts are altered from their original state, the majority ruled. The justices ruling in the majority said that meant the parts aren't at Pratt & Whitney as part of interstate commerce, meaning they aren't being temporarily stored at the Bridgeport facility while they are in-transit to a final destination.

"It is clear Pratt is not engaged in the warehousing business," Ketchum said. "Pratt buys the repair parts from an out-of-state vendor. It stores these parts until they are needed in its engine repair process."

Loughry disagreed with this assessment, saying there was a "logical fallacy" in the analysis of the utility of the parts as it pertains to the amendment.

Loughry said the utility of parts and their components don't change when they are put into use in the jets. Parts at the facility do qualify for exemption from taxation, Loughry said, adding the majority had "scraped" to reach its ultimate conclusion.

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.

“The majority’s desperate attempt to liken the limited manipulation of the personal property at issue — which is expressly permitted under the statute — to something tantamount to full-scale manufacturing fails under the weight under its own strained semantical logic,” Loughry said.

Justices ruling in the majority also ruled the assessor, tax commissioner and circuit judge had “liberally construed” the Freeport Amendment, per state law.

Loughry also disagreed with the majority on that point, saying the justices brushed aside that requirement “with scarcely a sentence of its own analysis.”

“Accordingly, even if one were to dignify the majority’s dubious assessment that the personal property takes on a differing character once integrated into the repaired engines, liberal construction would demand that the countervailing conclusion (that the property has in no way been ‘substantially altered’ merely because it was affixed to the engines) must prevail to afford Pratt the tax exemption,” Loughry said. “Only by completely ignoring this countervailing argument — which, in fact it does — can the majority reach a result against the exemption.

“Accordingly, for the reasons set forth herein above, I respectfully dissent.”

NEW YORK - Which has a better property tax rate: a luxury condo in Tribeca, Manhattan, or a luxury condo in prime central London?

The property tax structures differ in the two areas. But, “if [you’re] looking solely at the property tax and ignoring all other taxes in both locations, London clearly wins,” said James Smith, a partner in the London law office of Baker McKenzie.

Different council boroughs set different council rates. “Property tax, known as council tax, in Knightsbridge - in the Royal Borough of Kensington and Chelsea - is capped at £2,124 (about US\$2,800) annually,” he said. This applies to any property with a rateable value of more than £320,000 (about US\$420,000), Mr. Smith said.

Rateable value is based on the 1991 value of the property. Historic values, rather than something more recent, are likely used because “it is time-consuming for the local council to have to assess the value of each property,” he said. So no matter whether a Knightsbridge home has a 1991 value of £320,500 or £3 million, the maximum tax is £2,124.

Property tax in Tribeca, on the other hand, is generally based on the taxable value, said David Pope, a partner in Baker McKenzie’s New York office. Taxable value is calculated based upon the market value of the property multiplied by an assessment ratio, he said. (For Class 2 property - co-ops and condos with more than three units - that ratio is 45%.)

Market value is not the purchase price, Mr. Pope took care to note, and is determined differently depending on the type of property. For example, according to state law, market value for condos and co-ops is generally based on the amount of rent that condos and co-ops would produce even if they’re not income-producing property, he said.

“For a luxury home in Tribeca valued in the millions, the annual property tax will almost certainly be greater than \$2,800,” Mr. Pope said.

Opponents Spar With De Blasio Over High Property Taxes

The issue of property taxes exploded in the New York City mayoral debate this week.

As CBS2’s Dick Brennan reported, Democratic Mayor Bill de Blasio and his Republican challenger, Nicole Malliotakis, were at each other’s throats over the current system and whether it needs changing.

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.

It seems many critics feel the property tax system in New York is unfair and that it benefits the wealthy. The other candidates in the race say Mayor de Blasio himself is one of the biggest benefactors.

At the debate with Malliotakis and Independent Bo Dietl on Wednesday night, Mayor de Blasio touted his plan for a millionaires' tax to draw revenue for repairing and upgrading the subway system.

But Malliotakis said the mayor's call for a millionaires' tax is hypocritical when his own house is worth \$3.6 million and "lower income earners and middle class homeowners" are "subsidizing" his property taxes.

De Blasio took Malliotakis to task for the comment about his house, noting that he bought his family's Brooklyn home a long time ago and did not expect it to appreciate in value to the degree that it has. As de Blasio spoke, Dietl mockingly said to him, "You're a millionaire!"

De Blasio then asked if Malliotakis herself would support his plan for a millionaires' tax for subway upgrade funding.

"I support you, millionaire Bill, paying more property taxes," she said. "That's what I support."

De Blasio said of the current property tax situation: "Values of homes have gone up. That's crucial. Values of homes have gone up. That has been what is causing so much of the impact."

Indeed values have gone up on de Blasio's homes. But Malliotakis said de Blasio is not nearly paying his fair share in property taxes. She said she pays more than he does for a house worth far less.

"He has a home of \$1.9 million and pays \$3,500 in property taxes," she said. "I have a home, upper middle class – people have homes worth \$550,000, and I pay \$5,500."

The reason is that the city has a 6 percent cap on property taxes maximum. Thus, the value of homes like the mayor's soars, his property tax does not.

Even if values double or triple, property taxes do not.

The mayor himself said he believes things must change.

"We need a major overhaul of the system," de Blasio said. "I'm ready to do that."

But Erik Engquist of Crain's New York Business questioned de Blasio's commitment.

"We should take that with a grain of salt, because early in his first term, he said he would like to do this later in his first term – and he never did," he said. "It's a kind of thing that is really easy to put off and then just never get to."

Engquist said there is a good reason for that – changing the system would make a lot of voters unhappy.

"This is a political third rail in New York City," he said. "If he makes this change to make them fair, he's going to have to raise property taxes for single-family homeowners – and they are the strongest voting bloc in New York City. People like him in his neighborhood – his neighbors – he doesn't want them screaming at him."

The mayor, for his part, said Assemblywoman Malliotakis has done nothing in Albany to change things. Now, a lawsuit is pending that theoretically at least could lead a judge ordering a change to the property tax law – if politicians don't do it first.

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.

The Before and After Effects of Flooding on Property Taxes

Hurricanes can hurt property taxes long before any water damage is done.

Cities and counties in Florida, Louisiana and Texas aren't the only ones whose tax bases are threatened by storm-fed flooding. So are a multitude of others that sit in coastal regions, on river banks or along waterways. We live in an age of superstorms that push water into places it's not meant to go, inflicting devastating damage.

One of the areas in which these surges are wreaking havoc are local taxes. Let me start with the obvious: Damaged or destroyed homes and businesses shrink the property tax base. That's not only a long-term problem, but also an immediate one, as a good portion of the revenue for cleanup comes out of local coffers. In the wake of Hurricane Harvey's devastation, Houston Mayor Sylvester Turner proposed a one-year, 8.9 percent boost in the property tax to cover cleanup and repair costs not reimbursed by federal programs. He dodged the tax increase bullet when the state offered the city \$50 million for immediate relief needs.

But it's not just the aftermath of devastating hurricanes that hurt the property tax base. The National League of Cities' September update of city fiscal conditions identified flood and storm recovery as a key issue, noting that there is a growing risk that local governments in storm-prone areas will have to increase the property tax to gain the same amount of revenue. In part that is because the assessed values of homes in flood areas around the country have been declining as potential buyers balk at the premiums for federal flood insurance. The lack of insurance could lead an assessor in a flood-prone area to factor in a degree of risk that would lower the value of a property.

In Florida's St. Petersburg area, there are reports that house hunters have already begun blacklisting neighborhoods where flood insurance rates are rising; real estate agents in the area report that the flood insurance rates are increasingly discouraging prospective buyers.

It is not surprising that homeowners are reluctant to buy flood insurance. The National Flood Insurance Program, which is itself awash in debt, has been reducing and eliminating subsidies that help homeowners pay for the high premiums. This fall, federal subsidies for businesses and primary homes began being phased out for those who buy homes in flood zones or sign up for new policies. At the same time, the Federal Emergency Management Agency, which runs the insurance program, is reassessing its risk calculations and redrawing flood maps, which will bring higher insurance rates to some areas.

Higher rates could affect how much a buyer will pay for a property. They could also affect how a home is built. Let's call it the "Noah's Ark effect." A home with flood-proofed improvements -- such as raising the home above flood levels -- will likely have lower flood insurance premiums and be assessed at a higher value (and thus bring a locality more revenue) because it is at less risk. Clearly, assessed values of properties in flood-prone areas are higher if owners take steps to protect their property. Some localities are trying to mandate such steps.

Norfolk, Va., which faces massive flooding risks from the combined threat of rising sea levels and sinking land, has proposed a new zoning ordinance that includes rules that would require the first floor of any new home to be elevated and for new developments to capture more stormwater onsite -- a change the city believes would help reduce road flooding. "What we're trying to build," says Planning Director George Homewood, "is a resilient community."

Some countries go further. Take the Netherlands, which despite its vulnerable sea level siting, does not generally offer flood insurance. It focuses on constructing robust "flood-resistant" infrastructure.

NJ Tax Court Holds Freeze Act Does Not Apply Unless Assessment Is Adjudicated

Property taxpayers in New Jersey have long relied upon application of the Freeze Act (N.J.S.A. 54:51-8) to maintain stability in assessments for two years after a judgment resulting in an assessment reduction. In its opinion in *Hackensack City v. Bergen*

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.

County (Tax Court, Oct. 24, 2017), the New Jersey Tax Court has answered the question as to whether the Freeze Act applies as to a non-adjudicated assessment with a resounding no.

The case involved an assessment that the City of Hackensack (the county seat) imposed on property that Bergen County owned and used for administrative offices. In 1994, the city unilaterally revoked the real property tax exemption for the property. In New Jersey, government owned properties are typically exempt provided they are used for exempt purposes.

The county appealed the assessor's decision and the city's assessments from 1994-1998 to the Bergen County Board of Taxation. The county tax board reinstated the property tax exemption, and in so doing, adjudicated the value of the property at \$0. In New Jersey, an exempt property carries an assessed value supposedly reflecting the property's fair market value, even though the property itself is exempt and the owner pays no taxes. The county tax board dismissed the county's challenges to the 1995 through 1996 assessments, because they were not timely filed. However, the tax board granted the county's challenges to the 1997 and 1998 assessments.

The city appealed the Board of Taxation's decision to the Tax Court, but while the appeal was pending, the city ignored the county tax board's ruling and continued to assess the property as if it were not exempt. Meanwhile, the county appealed the dismissal of its challenges to the 1995 through 1996 assessments. All the appeals were consolidated, and the Tax Court affirmed the exemptions for the 1994, 1997 and 1998 tax years, and affirmed the dismissals for the 1995 and 1996 tax years. The parties then appealed the Tax Court's decisions to the Appellate Division, which affirmed the Tax Court's determinations.

The county then moved before the Tax Court to apply the Freeze Act to the county tax board judgment for the 1994 tax year (the base year judgment), which would have effectively reduced the assessments for 1995 and 1996 to \$0 and resulted in no taxes being owed for those years. The Tax Court began its analysis by noting that the Freeze Act does not apply to determinations of exempt status. It applies only to determinations of value. Then the remaining question, as articulated by the Tax Court, was "whether the Board entered a judgment as to the value of the property or simply the exempt-status when it issued its judgment for 1994."

The Tax Court found that the county board judgment was ambiguous on its face as to whether it constituted a determination of value or solely a determination of the exempt status of the property. In that regard, "in order to have a final judgment as to the value of the property, one or both parties would have to proffer evidence regarding their conclusion of fair market value." Despite the court's request for a proffer of proofs submitted to the county board on value, "[n]either party was able to provide any evidence of value being presented to or litigated before the Board." Given this state of the record, the court also noted, "To say that a property has a value of zero defies logic. All property has inherent value. A tax exemption does not strip a property of its value. Rather, it simply relieves a taxpayer from an obligation of paying the tax owed." Hence, the Tax Court found that the \$0 assessment judgment of the county tax board reflected "the effect of the tax exemption, *i.e.*, zero taxes owed, not value." Because there was no adjudication of the assessed value, the Freeze Act could not apply to the county board's 1994 judgment reducing the assessment, and thus, the 1995 and 1996 assessments were sustained by the court. Taxpayers should therefore be wary: to seek application of the Freeze Act, there must have been an adjudication of value resulting in a judgment through trial or a proffer of value through the tax appeal settlement process resulting in an assessment adjustment.

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.