IPTI Xtracts

Property Tax and Assessment News from Around the World

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Contents

ARIZONA - ROOFTOP SOLAR LEASES EXEMPT FROM PROPERTY TAX, COURT RULES 2

CALIFORNIA DESERVES A BETTER PROPERTY TAX LAW THAN PROP 13 2

GUAM - HIGHER PROPERTY TAX, STREAMLINE GOVGUAM TO HELP WITH FISCAL SHORTFALL 4

UTAH - AFTER 30 YEARS, HOW IS TRUTH IN TAXATION WORKING? 4

TEXAS SUPREME COURT HANDS ARCHROCK A COMPLETE WIN IN MAJOR PROPERTY TAX CASE 5

NEW YORK - IS IT TIME TO REPLACE THE PROPERTY TAX? 6

NEW YORK -HOW VALUE CAPTURE CAN SAVE NEW YORK CITY'S SUBWAYS 7

NEW JERSEY - WANAQUE LOSES HUNDREDS OF THOUSANDS A YEAR AFTER APPEAL BY LARGEST TAXPAYER 9

NEW JERSEY TAX COURT DENIES CHURCH'S PROPERTY TAX EXEMPTION 10

MICHIGAN - THE GENERAL PROPERTY TAX ACT 11

ILLINOIS - FLAWED ASSESSMENTS UNDER ASSESSOR BERRIOS CAUSED $2 BILLION SHIFT IN CHICAGO PROPERTY TAXES, STUDY FINDS 11

THE BEST AND WORST STATES FOR PROPERTY TAXES 14

TEXAS - DON'T LET YOUR APPRAISAL DISTRICT OVERVALUE HARVEY-FLOODED HOME 14

PENNSYLVANIA - RECENT COURT RULING OPENS A DOOR FOR HOMEOWNERS TO APPEAL TAX BILL 15

OHIO'S SYSTEM FOR CHALLENGING PROPERTY VALUES AND TAXES 16

NEW YORK - WITH PROPERTY TAX, TAKE FROM THE MIDDLE AND GIVE TO RICH 18

NEW YORK - STATE MUST PAY ITS FAIR SHARE OF TAX 20

NEW JERSEY - YOUR PROPERTY TAXES JUST JUMPED BY MORE THAN 50 PERCENT. NOW WHAT 21

NEW HAMPSHIRE - POLICY EXPERTS DIFFER ON SIGNIFICANCE OF NEW HAMPSHIRE'S 3RD HIGHEST PROPERTY TAX RATES 23

NEW HAMPSHIRE - CURRENT USE SYSTEM RAISES QUESTIONS ON FAIRNESS, COST 24

MISSOURI - KCI MARRIOTT LOSES APPEAL, SET TO PAY $2.3M TO COUNTY 27

KANSAS - BIG BOX STORES' TAX FIGHT REVEALS STRANGE LOGIC IN JOHNSON COUNTY APPRAISALS 28

ILLINOIS - THAT TROPHY TOWER ISN'T WORTH WHAT YOU THINK IT IS. OR SO SAYS THE ASSESSOR. 29

ILLINOIS - ASSESSOR'S OFFICE OFFICIALS IN HOT SEAT OVER 'REGRESSIVE' SYSTEM 31

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ARIZONA - Rooftop solar leases exempt from property tax, court rules

The Arizona Supreme Court ruled that customers who lease rooftop solar panels are exempt from paying property taxes, saving major residential solar installers Sunrun and Tesla's now-defunct SolarCity, who own the systems, millions in potential taxes. The lease model, or power purchase agreement model, was the mainstay of these companies' business proposition in the beginning.

However, the ruling could enable lower courts to decide whether or not counties could assess those panels for potential taxes, the Arizona Republic reports.

The case was sparked by a move from the state Department of Revenue in 2013, which said that tens of thousands of customers who leased rooftop solar panels could be on the hook for property taxes. At the time, those solar arrays amounted to $34,000 per system the first year, the news outlet reported, amounting to $152 in taxes that would decline over time.

Arizona's battles over rooftop solar are not finished yet. A case that dated back as far as 2013, the beginning of the first round of fights between the state's utilities and solar installers, appears resolved for now, but could move to the local level should lower courts resume it.

The state Supreme Court ruled that the Department of Revenue lacked authority to levy taxes on leased rooftop solar systems. The Department of Revenue said leased panels do not qualify for an exemption that said solar energy systems that establish onsite consumption have no value and are not adding to the property. Arizona Public Service, the biggest player in the rooftop solar battles, supported this claim.

It's unclear whether or not the fight over property taxes will return to the lower courts. Arizona already terminated its current net metering program in exchange for a rate closer to the utilities' avoided cost. And leases are slowly declining as solar installers shift toward more of a loan model.

CALIFORNIA Deserves a Better Property Tax Law Than Prop 13

California’s housing crisis is well-documented. Palo Alto, home to Stanford, offers subsidized housing assistance for any household with an annual income of less than $250,000. In the Bay Area, even doctors and lawyers are struggling to afford sky-high down payments and mortgages: the median house price in San Jose is one million dollars.

Part of the problem is that those who do own property in those areas have vehemently resisted efforts to build more housing units, which they worry will affect their home values and over-crowd public schools. Another part of the equation, though it is often overlooked, is California’s Property 13. This law freezes California property taxes at one percent of their valuation at the time of purchase or in 1978–whichever came later–and was publicized as the catalyst for a “taxpayer revolt” across the nation. Economist Richard Reeves wrote in the Seattle Times that Prop 13 was simply “a scheme by the people who got here first to preserve their lifestyle and life savings at the expense of newcomers.” This unfairness visibly plays out in the dramatically unequal property taxes levied on owners of similar properties: someone with the good fortune to have been able to purchase property in 1978 may end up paying less than 10 percent of their neighbor’s tax burden.

In this way, Prop 13 is a regressive tax benefit. Those who stand to benefit most from reduced property taxes are those who would otherwise have paid the most: Californians who own high-value properties, or properties that became high-value but were not at the time of purchase. Even worse, because Prop 13 caps the property tax revenue a local government will receive, many towns must resort to alternative sources of revenue. One popular strategy is to increase sales tax, which applies an equal burden to everyone regardless of their income. (In 1975, more than 95 percent of the typical city or county’s tax revenue was

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from property tax; today, that number is closer to 65 percent.) For a state frequently accused of being too liberal, it is surprising that California's "third rail" is a law that disproportionately protects an overwhelmingly wealthier, older, and whiter group of Californians than the general populace. Even more interesting is the importance of the Bay Area specifically—while frequently thought to be the most liberal part of an already "too-liberal" state, its residents are most affected by this uncharacteristically conservative law. The dramatic appreciation of Bay Area property prices has produced both Prop 13's biggest winners—including Palo Alto, with an effective property tax rate of 0.42 percent—and losers, an unhappy group of perpetual renters composed of Twitter engineers, doctors, and Facebook cafeteria workers alike.

Whether Prop 13 is even legal was brought into question by the 1992 Supreme Court case Nordlinger vs. Hanh. Nordlinger, a new homeowner, sued by claiming that Prop 13 violated the Fourteenth Amendment's equal protection clause: it was unconstitutional, she said, that she had to pay so much more in property taxes than her neighbors did. In the end, Nordlinger lost the case—the Court declared that the state could reasonably tax new and older homeowners differently because older homeowners had a greater "interest" in their property. However, it is important to note that the Court conceded the constitutionality of Prop 13 with Justice Harry A. Blackman remarking in the majority opinion that the law appeared to "vest benefits in a broad, powerful, and entrenched segment of society."

Prop 13 also contributes to a "lock-in" effect for longtime owners; with each passing year that their property appreciates in value, they stand to benefit more and more from Prop 13 and have increasingly more to lose by moving to another home, where they would be paying the "full" property tax. This effect is only compounded by the fact that under Prop 13, families are allowed to carry out intergenerational transfer of property without property value reassessment. The property turnover rate in California has shrunk from 16 percent in 1977, the year before the law was passed, to less than six percent in 2014; this turnover rate will only continue to decrease as California coastal property prices soar.

For a state that is frequently accused of being too liberal, it is surprising that California's "third rail" is a law that disproportionately protects an overwhelmingly wealthier, older, and whiter group of Californians than the general populace.

Research by Wasi and White for the National Bureau of Economic Research (NBER) demonstrates that from 1970 and 2000, "The average length of ownership rose by less than a year among homeowners receiving the lowest tax relief, compared to two to three years for those receiving the highest tax relief." That is, average tenure length increased by less than one year in inland California cities, where property prices have increased gradually—but by more than two years in the Los Angeles area and by three years in the Bay Area, where prices have increased dramatically. (Recall that the greater the difference between a home's 1978 and current valuation, the greater the impact of Prop 13.) This means that homeowners in places like Palo Alto are the ones who are least likely to sell. We can find further evidence of Prop 13's "lock-in" effect by examining what happens when this burden is lifted. In 1986, a new amendment allowed homeowners aged 55 or older to maintain the tax benefit stipulated by Prop 13, provided they move into a similarly-priced home in the "same county or a county with a reciprocal relationship." 55-year-old homeowners are now 20 percent more likely to sell their homes than 54-year-old homeowners, suggesting that many of those 55-year-olds specifically waited to sell in order to retain their current property taxes.

The effect of Prop 13, then, is essentially the same in action as rent control. Just as people who live in rent-controlled apartments are especially unwilling to move, longtime homeowners in California–especially those who live in desirable regions like the Bay Area, where demand for housing is high–are particularly unwilling to sell unless they plan to move out-of-state or are already retired.

Furthermore, Prop 13 ensures that becoming a new homeowner is extremely difficult; not only are homeowners unwilling to sell, but many renters are also unable to buy. This situation only exacerbates the inability of young people to purchase affordable property. A 2005 study showed that young Californians are significantly less likely than their same-age peers across the nation to own property–even when compared to young people in other famously expensive states such as New York. This discrepancy, however, is not present in 1970 census data–a telling signature of Prop 13.

Some argue that Prop 13 will drive businesses out of the state. After all, repeal of Prop 13 will force many businesses to pay much higher property taxes, as they would be based on a current, accurate assessment of their property's value. Perhaps California needs Prop 13 to keep businesses in California, which was ranked the least business-friendly state in the nation and the second most expensive state to conduct business within.

However, California can offer other incentives to businesses to stay in state. For instance, a tech startup may not want to rent highly expensive offices in the Bay Area, but they may still need to in order to attract the top tech talent that is overwhelmingly located in the area. Actors have little choice but to live near Hollywood, and many businesses, such as apartment complexes or golf courses, have no choice but to remain in California. Furthermore, reform of Prop 13 may actually encourage the creation of

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new businesses and has support among small business owners, as the current policy heavily favors established businesses who are longtime owners of their property—under the current model, new businesses may be taxed at five times the rate of established businesses. Although specific incentives such as access to the Silicon Valley talent pool or proximity to Hollywood won't affect the majority of businesses, Prop 13 reform would level the playing field by levying an equally effective property tax rate on neighboring businesses.

Realistically, it will be extremely difficult to pass Prop 13 reform. When the law was passed, it included a clause that will require a 2/3 majority to pass property tax reform; in a state where the majority of adults are homeowners, it will be difficult to persuade them to vote against their financial interest to rectify issues that don't directly hurt them. It may be more politically feasible, for instance, to argue that children should not be able to inherit their parents' property tax benefits under Prop 13, or to advocate for a more relaxed Prop 13 that allows a 3 percent annual appreciation of taxes, as opposed to the current 2 percent. Another possibility is to end Prop 13 for businesses only: for example, a split-roll tax reform might charge all businesses the same 1 percent property tax rate. But despite the difficulty of suggesting reform of such an entrenched policy, California should still aspire to live up to its progressive ideals and reform a regressive tax loophole that, while somewhat arbitrary, concentrates capital in the hands of those who had the good fortune to buy a house prior to 1978.

GUAM - Higher property tax, streamline GovGuam to help with fiscal shortfall

It's puzzling that among the many proposals to address a projected $67 million shortfall in government revenues due to federal tax reform, increasing property taxes hasn't been put on the table.

There have been proposals to increase the business privilege tax by 25 percent and 50 percent, proposals to implement a tax on internet sales and to implement a sales tax.

An increase to property taxes makes a lot of sense. To begin with, it wouldn't have a devastating impact to the island's poor and low-income brackets, which an increase to the business privilege tax would have. Increasing the latter would translate into an across-the-board increase to the costs of goods and services.

Property tax rate among the lowest

Guam's property tax rate is the among the lowest in the country. It's a fraction of what it is elsewhere.

And people who own property and buildings are much more able to handle a higher tax rate in comparison to most other residents, especially those in low-income brackets.

And a higher property tax rate also would help stimulate development and assist in getting rid of abandoned and damaged buildings. Charge a higher property tax rate on undeveloped land, or buildings that are run-down and dilapidated. This will give owners a reason to improve their property and get rid of community eyesores.

But just increasing the property tax isn't enough; much more needs to be done.

Efficient and effective government

It's also imperative that real and substantive cuts are made to the size of the government of Guam budget. The $67 million revenue shortfall is an ideal opportunity for elected officials to modernize and streamline, consolidate agencies, eliminate redundant and unneeded jobs to provide a much more efficient and effective government.

This will allow elected officials to focus limited revenue on priority services to the community — education, health care and public safety.

UTAH - After 30 years, how is Truth in Taxation working?

In Utah, property taxes are on the low side. A 2015 Tax Foundation analysis of tax rates on owner-occupied housing ranked Utah 41st in the nation.

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When the subject of property taxes comes up, local officials are apt to bring up Utah's Truth in Taxation law. As the name of the law implies, Utah's Legislature created the law as a means of ensuring transparency to decision-making about taxes. But one practical effect of the law was to limit local governments' ability to reap windfalls from increasing property values. And from the perspective of some local officials, the law has stunted revenue growth.

To get to the bottom of this issue, Utah Foundation has issued a new report, "The Essential Tax: Property Taxation in Utah."

Property taxes in Utah are older than Utah itself, dating back to 1849, the year after the U.S. gained this area from Mexico. Since antiquity, property taxes have been a primary means of paying for the services and infrastructure provided by government. While several states lack income or sales taxes, no state lacks property taxes. In short, property taxes may be the most expected taxes on earth.

In Utah, property taxes are on the low side. A 2015 Tax Foundation analysis of tax rates on owner-occupied housing ranked Utah 41st in the nation. Neighboring Idaho, Wyoming, Colorado and New Mexico all ranked similarly low. But Utah Foundation dug deeper, measuring the impact taxes have on Utahns by analyzing their tax burden (how many dollars Utahns spend on taxes for every $1,000 earned). Utah's current property tax burden is $25.27 per $1,000 of personal income, near its long-term average of $26.24 per $1,000 of personal income. Utah's tax burden ranks 34th among states.

Property taxes may be relatively low in Utah, and people may expect them — but that doesn't make them popular. In the 1980s, after a period of rapid increases in property values, some local governments began to reap windfalls as tax revenues increased much faster than the actual cost of governance and local services. This situation raised questions about transparency and accountability, as local governments could bring in more cash without having to justify it to the citizens they served.

As other states had done, Utah created a mechanism to limit such windfalls through two basic means: First, the "Truth in Taxation" law shifted the basis for taxation from a fixed rate to a fixed revenue amount (with an upward allowance for population growth); the rate must be adjusted downward to reflect increases in total property valuation (or upward if property values decline). Second, Truth in Taxation required local government entities to notify the public and hold hearings if they intended to take in additional revenue.

Some have argued that Truth in Taxation has stunted revenue growth, failing to account for inflation. Utah Foundation examined this question on a statewide level by examining population growth and inflation combined during the past 30 years.

The results were mixed. Property tax collections for school districts, which receive more than half of all property tax revenues in Utah, appear to be significantly outpacing population growth and inflation combined, particularly during the past 10 years. Local and special district revenues appear to be growing similarly well. Cities and towns, meanwhile, are collectively keeping pace with population growth and inflation. And counties have actually lagged behind.

At the end of the day, the outcomes will vary from jurisdiction to jurisdiction, and each local government entity and the population it serves must decide whether they have enough revenue to meet needs. Luckily, Truth in Taxation creates a mechanism for that: public notice and hearings. And from what Utah Foundation learned, at least some local governments have been able to convince their constituents over the years that, as unpleasant as taxes may be, sometimes the government just needs more money.

TEXAS Supreme Court Hands Archrock a Complete Win in Major Property Tax Case

On March 2, 2018, the Texas Supreme Court decided *EXLP Leasing LLC et al. v. Galveston Central Appraisal District*, reversing the Fourteenth Court of Appeals and rendering judgment in favor of Baker Botts' client Archrock. (Archrock was previously known as "Exterran," which is the name used in the Supreme Court's opinion.)

The dispute concerned the constitutionality of a special appraisal statute for the valuation of heavy equipment inventory for tax purposes, which involved over $66.2 million in aggregate tax benefits to Archrock from 2012-2017. Those unfamiliar with this area may fairly wonder why valuation of inventory is so hard or why the decision is so significant. The Legislature has been working for over two decades to reform the system of inventory taxation. The statute at issue in Friday's decision is simply its most recent effort.

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Archrock is in the business of leasing natural gas compressors, which are large gas-powered pieces of equipment used throughout Texas to assist in the extraction of oil and gas. In 2011, the Texas Legislature amended the Texas Tax Code to streamline the appraisal process for all "heavy equipment inventory" that is held by a dealer for sale or lease. Archrock complied with the new statute, but the Galveston Central Appraisal District (GCAD), like over 100 other Texas appraisal districts, refused to accept Archrock's heavy equipment tax filings. The appraisal districts argued that the heavy equipment statute did not tax heavy equipment inventory at fair market value, and thus violates Article VIII, Section 1 of the Texas Constitution. According to the appraisal districts, the new statute resulted in a 97% decrease in tax revenue on oil field compressors compared to prior traditional methodologies for determining "market value."

Friday's decision secured the special inventory valuation statutes, and unambiguously rejected the appraisal districts' constitutional arguments. The Court instead adopted Archrock's argument that, because the Texas Constitution expressly requires that all personal property be valued "as may be provided by law," the Legislature may prescribe methods for valuation that are binding on appraisal districts. "[W]hile many of the tax code's valuation methodologies are based on market value, . . . the legislature's reliance on market valuation for the vast majority of property does not create a constitutional imperative that is do so in all instances." The heavy equipment amendments replaced a cumbersome, complicated, and expensive appraisal system with a far simpler method that ensures all dealers are taxed in exactly the same way—based exclusively on the amount of income their inventory generates. The new statute severely penalizes any dealer who seeks to hide or underreport its sales or leases, and eliminates prior county-by-county discrepancies. All of this, the Court said, was well within the Legislature's constitutional authority.

This decision will affect hundreds, even thousands, of lawsuits pending across Texas. Since 2012, Baker Botts alone has filed over 800 lawsuits, suing more than 100 Texas appraisal districts that have refused to follow the statute.

The ruling is particularly significant because, if Galveston Central Appraisal District had prevailed, the Court would have told the Legislature that there was no flexibility when it comes to taxing inventory, essentially locking down old methods that cost more and are less effective. It would have thrown some 25 years of reform statutes into doubt. The Court's message was that the framers of our Constitution were more far-sighted than that. When they drafted our current Constitution in 1876, they expressly left it to the Legislature to make these decisions because it is the Legislature's duty to account for changes that come with new technology, new forms of property, new economic realities, and the needs of the Texas people. And beyond that, the Court demonstrated again that Texas courts will not reject valid state and local tax-planning techniques just because they significantly reduce taxpayers' liability.

NEW YORK - Is it time to replace the property tax?

It is unrealistic to abandon it as a tool to fund schools, but decreasing dependence on it is an attainable goal.

The federal limit on the deductibility of state and local taxes will effectively increase the tax burden of nearly every homeowner in downstate suburbs. These are the same taxpayers the state depends on to fund services in other regions. The state returns only 65 cents of every tax dollar paid by downstate suburbs to their region; the balance goes to other parts of the state.

The federal $10,000 limit on SALT deductibility is important to Long Island because it's a high-tax region in one of the highest taxed states. This is why the Gov. Andrew M. Cuomo is proposing ways to mitigate the loss of deductibility, including charitable contributions in lieu of property taxes.

Downstate suburban taxpayers, who have benefited from the state property tax cap over the past few years, will see its impact dramatically diminished. Since the cap was enacted in 2012, the growth of property taxes in New York has slowed dramatically. The state has worked to make the tax cap succeed by increasing school aid, the only source of revenue other than property taxes available to schools. This has been especially challenging because our school aid formulas simply do not work. One in particular, the foundation aid formula, is so dysfunctional the state has worked around it to allocate aid increases that have enabled districts to maintain, and in some cases expand, programs.

Unfortunately, the new federal tax law will undermine that progress and put the spotlight back on the property tax issue that appeared to be fading because of the property tax cap. This, coupled with looming cuts in federal education aid, will lead to a call for re-examining our school funding system: state aid and property taxes. Realistically, radical change is not likely to occur because the system is entrenched. To replace state education funding from the property tax, about $33 billion, we would need

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to increase all state income, sales and business taxes by nearly 40 percent. It is unrealistic to abandon the property tax for school funding, but decreasing dependence on the tax is an attainable goal.

Studies have found that the property tax is just too big to replace. In 2006, the Suffolk County Legislature set up a commission to study alternatives to the property tax. After months of deliberations, no alternative was recommended. However, the commission suggested that the state share of school funding be raised to 50 percent to reduce property tax overdependence and that a working state aid formula be put in place.

As a former commission member, I can say the group would agree that school district dependence on property taxes does not make sense and that there are better ways to finance schools.

If we could start from scratch, our schools would be adequately and equitably funded so all students would receive more than a “sound basic education.” To do that, education would have to be largely state-funded supported primarily by state aid raised through broad-based taxes on income and sales. The aid would be distributed to address the needs of all the children in the state, factoring in regional cost differences. Given that we haven’t been able to develop a formula to equitably distribute aid that funds just 36 percent of school costs, designing a formula that fully funds education statewide would be a challenge.

A new formula has to be sensitive to our region’s tax situation. Long Island cannot continue to fund services in other regions at the same rate as in the past. According to the Rockefeller Institute, the downstate suburbs contribute 27.4 percent of state revenues and get back 17.7 percent of disbursements.

New York should assure that state support recognizes the region from which the funding is raised as well as regional cost differences. If the state raised its share of education funding to 66 percent, and the downstate suburbs received a 27.4 share of disbursements, our regressive property taxes would be cut in half, while progressive income taxes rise by less than one third. Downstate suburban taxpayers would pay less overall and regressive property taxes would be reduced dramatically.

There are many variations on this theme, but the bottom line is that more state tax receipts from our region should be used to fund services in our region.

For Long Island, the new federal tax law will have a significant and punitive impact.

The recent federal action demands that we respond creatively. We should take advantage of this opportunity to innovate and change.

NEW YORK -How value capture can save New York City’s subways

Why it works, and how it should be used

Value capture, in which the public sector recovers some of the value created by government actions like the construction of a transit line or a rezoning, has recently joined congestion pricing among the most discussed potential funding streams for New York City’s troubled subway system.

Building on the experience of the No. 7 subway line extension to the Hudson Yards redevelopment, Gov. Andrew Cuomo proposed the creation of “transportation improvement districts” around new transit stations elsewhere in New York City. Under the governor’s plan, value capture would only apply to transit projects that cost more than $100 million. Just recently, the Trump administration also included value capture as an additional potential source of revenue in its long-awaited national infrastructure plan.

To many, value capture makes sense because it is not just a way to find new revenues for much-needed infrastructure upgrades: It’s also fairer. When a government builds or improves a road or subway line, all of society benefits, but the people or businesses that own property nearby benefit most. Those landowners often see a massive increase in property values and can charge higher rents. In this view, it’s only right that these beneficiaries should cover much or at least some of the cost that would otherwise burden taxpayers.

Land-based financing can produce a range of outcomes, including parks and affordable housing, but the policy is often most closely associated with the creation and maintenance of public transit – just as Cuomo has zeroed in on.

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Value capture has been used widely in conjunction with transit and other projects around the United States and beyond. At the Lincoln Institute of Land Policy, we've been tracking the use of value capture worldwide, and we have learned a few lessons for policymakers considering the use of this land-based financing mechanism.

It can be done

The concept of value capture goes back to the Roman Empire and the construction of far-flung aqueducts, and has continued through the 20th century in Latin America, Asia and Europe. The United Kingdom's megaproject Crossrail was premised on some funding coming from private landowners and developers along the route, and similar funding mechanisms are envisioned for the next phase of the project. The $3.4 billion, 466-mile new rail link connecting Addis Ababa, Ethiopia, to Djibouti includes significant funding by China, but also a value capture component. Versions of value capture have been used at urban development and redevelopment sites across the U.S., typically anchored by a transit hub that becomes a destination unto itself; examples include Denver's Union Station and the Transbay Transit Center in San Francisco. Mechanisms to use value capture for transit funding are also in the works in Illinois, Texas and Massachusetts. In Boston, local and state officials worked with New Balance to build the Boston Landing commuter rail station, funded through the bond financing Infrastructure Investment Incentive Program. While not in the purest sense value capture, the partnership was premised on future revenues generated by the development.

Increases in value

The implementation of value capture requires technical capacity at the local level, but nobody has to reinvent the wheel. There is a well-established science for measuring increases in value – known as the "land value increment" – triggered by the establishment of publicly funded transportation infrastructure. It's a major area of study that includes looking at the impact of bus rapid transit lines on land prices in Mexico City or the way property values have already increased along the proposed route of the next phase of Crossrail in London. The dynamic is so documentable that a special purpose agency in Copenhagen, Denmark, in charge of developing waterfront property controlled by the city and the port requires land buyers to pay a supplement to the purchasing price if and when a metro station is established in close proximity to the property.

The power of zoning

Though value capture often relates to transit, it applies equally to land value generated by rezoning and other regulatory changes. New York City is already experimenting with such options in the rezoning of Brooklyn's East New York neighborhood, where zoning changes are expected to support 6,000 new housing units. Property values increased as soon as the rezoning was announced. At least half of those units will be affordable, in part through a mandatory inclusionary housing requirement, a form of value capture. In our experience observing land use and development worldwide, when a government makes a zoning change for a given area – converting rural land to urban use, for example – the value of the land instantly spikes. Since upzoning often accompanies transit expansion, these policies can work hand in glove. In São Paulo, in areas targeted for redevelopment, the city auctioned off additional rights to build at greater density, generating billions of dollars of revenue for infrastructure and affordable housing.

Timing is important

Ten years ago, Massachusetts announced new stops for a planned light rail extension through Somerville, a city northwest of Boston. The project has yet to break ground and continues to face funding challenges, but property values within a half mile of the proposed stations have increased 20 percent faster than in Somerville as a whole, demonstrating that it is better to have the value capture mechanism in place before a major infrastructure project begins. However, it is possible to work with the private sector to support the pivotal role that transit plays in commercial districts. Working closely with the city of Cambridge, the Massachusetts Department of Transportation and others created a new mechanism and governance structure for supporting public transit to serve the booming Kendall Square neighborhood.

Done right, value capture offers a straightforward, powerful means of reclaiming value on behalf of the public – and ensures that cities can deliver on infrastructure projects their residents need.

Anthony Flint is a fellow and director of public affairs at the Lincoln Institute of Land Policy in Cambridge, Massachusetts.

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NEW JERSEY - Wanaque loses hundreds of thousands a year after appeal by largest taxpayer

A settlement between the borough and its largest taxpayer will shrink the tax base by about $8.4 million by 2020.

The settlement will also mean hundreds of thousands in potential yearly tax revenue will be lost, shifting more of the tax burden to the borough's other taxpayers. Last year's budget was $13.5 million.

After a town-wide revaluation in 2013, the North Jersey District Water Supply Commission challenged its new assessment, which jumped from $16.1 million to $22.5 million. It also filed appeals for 2014, 2015, 2016 and 2017.

An agreement was recently reached after a backlog of appeals was cleared out of the courts.

Mayor Daniel Mahler said he was not pleased with the commission's appeal, calling it a "greedy" move.

"I didn't like the fact that they appealed after they had already gotten a $300,000 reduction when we did the revaluation," Mahler said. "I think they're greedy."

The commission owns 25 blocks and lots in the borough and is also the largest taxpayer in Ringwood, where it also settled appeals recently. The commission operates the Wanaque and Monksville reservoirs and provides drinking water to municipalities throughout the state, including Paterson, Passaic, Wayne and Clifton.

"I personally think that they should be taxed higher, because if we drained the reservoir and sold the land we would have a lot more money than what it is now," Mahler said.

On the other hand, the mayor said, things could have been worse.

"They didn't try to hurt us," Mahler said in describing the design of the settlement. "When they settled, we did it going forward instead of going back," he said.

The settlement includes no retroactive reductions dating back to 2013, as initially sought by the commission, records show.

The settlement sets up incremental assessment reductions over the next three years, without going back to the last five years.

For the years 2018 through 2020, the commission will avoid paying $315,000 in property taxes. And by 2020 it will pay $191,000 less in annual taxes compared with the original 2013 revaluation.

The reduction means more of the tax burden will shift from the water supply commission to other taxpayers.

If all other local tax rates and property assessments remain steady, the reduction would result in 2017's average taxpayer, with a $246,554 assessment, paying $42 more in annual property taxes by 2020.

John Eskilson, the borough's interim borough administrator, noted that the impact on an average taxpayer is fairly abstract because it doesn't take into account offset tax revenue, the potential increase in the tax base from year to year and fluctuations in tax rates.

"Is it fair?" Mahler said. "I wasn't happy with it, but satisfied, I guess. With any settlement you have to do what you have to do."

The state determines how reservoir land is appraised. West Milford has struggled with the state over how Newark Watershed property is assessed in that township.

Mahler questioned how the state calculates those values, and said the borough is basically stuck with whatever they decided.

"It was a no-win situation, so we negotiated the best we could," he said of the settlement. You're not going to be happy with every deal, he said.

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Wanaque uses its own wells for water but does have a connection to the commission's reservoir water as a backup source in case of emergencies, Mahler said. Usage might occur during the peak summer season or when a well needs to be taken off-line for maintenance.

Wanaque Borough Attorney Anthony Fiorello said Wanaque's outstanding tax court cases have finally been resolved.

He said that because there was only one tax court judge, it resulted in a "horde of tax appeals." Wanaque had cases pending as far back as 2012, he said.

Once more judges were appointed, the backlog was vigorously cleared out, Fiorello said.

The deadline for filing tax appeals is April 1. Wanaque receives about a dozen appeals each year, Fiorello said.

"There's adjustments made with respect to comparables, and generally in the past we have made out well," Fiorello said.

NEW JERSEY Tax Court Denies Church's Property Tax Exemption

The New Jersey Tax Court, in *Christian Mission John 316 v. Passaic City*, recently issued a decision refusing to allow a property tax exemption for a commercial property under construction for a new religious use. The Tax Court strictly construed N.J.S.A. 54:4-3.6 and found a religious nonprofit corporation's limited use of its property, which was under construction as of the assessing date, did not meet the requirements for a local property tax exemption.

At issue was whether the subject property was available for religious services absent a temporary or final certificate of occupancy and whether the plaintiff actually used the subject property for religious purposes. The plaintiff is a religious nonprofit corporation and owns and operates a church with an adjacent parking lot. The church and parking lot are both exempt from local property tax. In September 2009, the plaintiff purchased the adjoining property in order to expand its facilities. Between 2009 and 2012, the property was not exempt from local property tax, and the plaintiff did not appeal the decision. In late 2011, the plaintiff began significant renovations of the property to convert it from a commercial warehouse into a large sanctuary, offices and meeting space. During the construction, the plaintiff conducted 20-minute prayer sessions on the property for church members and their spouses who were part of the construction team. In 2012, the defendant city denied the plaintiff's application for a local property tax exemption for the subject property for the 2013 tax year. The plaintiff appealed the decision and moved for summary judgment.

In its decision, the Tax Court concluded the property was not exempt from local property taxes for the 2013 tax year. The court held that the 20-minute prayer sessions did not constitute "actual use" as contemplated under N.J.S.A. 54:4-3.6 because neither the public nor a majority of the plaintiff's congregation derived a benefit from the property as of the assessing date. In support of its decision, the Tax Court explained that the prayer sessions were not available to the public and were incidental to the prayer services offered by the plaintiff, and that formal religious services commenced several weeks after the assessing date of October 1, 2012. It did not matter that the goal, intent or objective was to furnish a tax-exempt purpose (religious activities), because the subject property was not in a position to provide its services or benefits to the public as of the assessment date.

The Tax Court also found that the subject property could not be considered actually in use or fully available for use under N.J.S.A. 54:4-3.6, because a temporary certificate of occupancy was not issued until April 14, 2013, roughly six months after the assessing date. The Tax Court noted that the Uniform Construction Code (UCC) "strictly prohibits use or occupancy of a structure until a certificate of occupancy has been issued." The court stated that it could not envision the New Jersey Legislature condoning a taxpayer, in order to qualify for tax exemption, attempting to make actual use of a property prior to the property having an occupancy permit. In holding that the subject property did not qualify for exemption, the Tax Court circumscribed its opinion to "properties that: (1) have not previously been granted tax exemption; (2) are experiencing new construction or renovation to permit an intended use of the property for an exempt purpose; and (3) have not been the subject of an added assessment."

The Tax Court also, in a matter of first impression, narrowly construed the Appellate Division's decision in Society of the Holy Child Jesus v. City of Summit, 418 N.J. Super. 365 (App. Div. 2011), which holds that tax assessment statutes and construction and zoning laws are not to be read in pari materia, and municipalities have separate avenues of enforcement with regard to those laws. The Tax Court here relied substantially on the UCC as strictly prohibiting the use or occupancy of a structure until a

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certificate of occupancy has been issued as a basis for the denial of the tax exemption. However, under Society of the Holy Child, that would have been a non sequitur vis-à-vis the tax exemption. Even though the Society of the Holy Child Jesus opinion is governing legal precedent, the Tax Court took great pains to narrowly construe its holding. It is possible this extremely narrow reading may be subject to further challenge or appeal.

In light of the Tax Court's decision, exempt taxpayers should not assume property being converted to tax-exempt purposes will qualify for a tax exemption prior to the completion of construction. They therefore may wish to establish a reserve to cover the period of non-exemption. Also, tax-exempt religious entities such as churches, synagogues or mosques may want to allow the public, not just a select few, to attend or take part in any services held on the property during its construction or reconstruction, if safely or reasonably possible. Obtaining a temporary certificate of occupancy as soon as possible could be an important first step toward perfecting the exemption. Last, exempt taxpayers may want to weigh the costs and benefits of a renovation of a property that has not been previously tax-exempt if the cost of temporary taxes will be particularly significant.

MICHIGAN - The General Property Tax Act

How your property is valued and taxed is due to an amended process that has some procedures over 100 years old.

“All property, real and personal, within the jurisdiction of this state, not expressly exempted shall be subject to taxation.”

This broad statement of the General Property Tax Act (MCL 211.1) begins to examine assessment administration and its impact in generating local property tax revenues. As, Tufts University professor, Joseph Eckert noted, “Property assessment administration is a complex and technical profession vital to the financial health of local government. Assessors are responsible for administering the Ad Valorem tax system. … An Ad Valorem tax is based upon the principal that the amount of tax paid should depend upon the value of the property owned.”

Joan Youngman of the Lincoln Institute of Land Policy further explained, “at the most basic level, (the property tax) provide(s) information on a stable, long-standing and endlessly controversial revenue source that serves as a mainstay of autonomous local government finance in this county.” While the state of Michigan collects many types of taxes from income to sales to gasoline, the property tax remains the foundation upon which local units of government are built.

In the state of Michigan, the concept of our present property tax system was put in place on June 12, 1893 with the passage of the General Property Tax Act. While the act has been amended many times in its 125-year history, the basic principals have remained in place.

As all property within the state, unless exempted, is subject to taxation. Each township or city must employ a certified assessor to accomplish this task. This position is most important in each jurisdiction as the General Property Tax Act provides in section 211.10 that “an annual assessment of all property within the state liable to taxation shall be made in all townships, villages and cities by the applicable assessing officer.”
The act further provides that the annual assessment “shall be made by an assessor who has been certified as qualified” (MCL 211.10d). To accomplish this task of preparing the annual assessment roll, an assessor turns to training, experience and background.

Since the passage of Proposal A, the tasks of the annual assessment roll have become more vast and confusing. From the historic process of determining assessed and true cash values, assessors are now faced with Proposal A calculations of capped, taxable and tentative state equalized values. Each value having its own methods of determination and purpose in the overall process.

Basic assessment administration is now more than ever a complex and highly technical field. It remains as the first step in the property tax system and generation of local governmental revenue. It is in these statutorily defined assessed, taxable and capped values that local units of government begin to determine their local tax liability.

ILLINOIS - Flawed assessments under Assessor Berrios caused $2 billion shift in Chicago property taxes, study finds

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In the first effort to measure the cost of Cook County's error-ridden assessment system under Assessor Joseph Berrios, a new study estimates that at least $2.2 billion in property taxes was shifted from undervalued Chicago homes onto overvalued ones between 2011 and 2015.

Because the county's assessment system is skewed in favor of high-priced homes, the errors amount to a staggering transfer of wealth that benefited Chicago's most affluent homeowners at the expense of people who own lower-priced homes.

The study, released Thursday by the Municipal Finance Center at the University of Chicago's Harris School of Public Policy, was conducted by Professor Christopher Berry, a critic of the assessor's office who testified at a County Board hearing in July about flaws in the county's assessment system.

The analysis involved calculating a citywide fair tax rate using the tax bills of homes that sold, then seeing how those tax bills differed from the amount that would be expected if the assessor valued property fairly.

Under Berrios, the study found, flawed assessments caused as much as $1 billion to be shaved off the tax bills of Chicago's most expensive residential properties — those in the top 10 percent of value, or single-family homes and condos worth more than $1 million on average.

Because the amount of property taxes collected each year is fixed, that means hundreds of thousands of other taxpayers made up the difference, with the lowest-valued homes shouldering a disproportionate amount of the tax shift.

"Everyone — even the assessor — now agrees that the system is regressive," Berry said. "But I wanted to know how much money is at stake. The answer is easily in the billions. These dollars are being taken from some of our citizens who can least afford it and used to pay the taxes of the wealthy. It's unconscionable."

The assessor's office dismissed the U. of C. study as a political ploy aimed at influencing the March 20 primary election. Officials also accused Berry of having an ax to grind because the office did not adopt a new residential valuation model he helped design in 2010 with a grant from the MacArthur Foundation.

"Clearly, Professor Berry is upset that his model was exposed to have flaws and deficiencies," the assessor's office said in a statement. "We are saddened by Professor Berry's lack of professionalism in releasing this report four days before the election and not giving us the opportunity to review it."

Berrios, who doubles as chairman of the Cook County Democratic Party, is fighting for re-election against two opponents: Fritz Kaegi, a money manager from Oak Park, and Andrea Raila, a property tax consultant who was put back on the ballot Wednesday after being disqualified weeks earlier.

The U. of C. study comes a month after the Civic Consulting Alliance, a nonprofit organization that provides pro bono technical expertise to local government, confirmed the county's residential property tax assessments are riddled with errors that cause "a wealth transfer from owners of lower-value homes to those of higher-value homes." That study did not put a dollar figure on the wealth transfer.

Cook County Board President Toni Preckwinkle commissioned the CCA study in July following publication of the Chicago Tribune's series "The Tax Divide," which found deep inequities in the county's residential assessment system.

Berrios' office, which denied for months that a problem existed, now is vowing to fix the issues with residential assessments before reassessing Chicago's roughly 730,000 homes this year.

The Tribune's investigation, which continued in partnership with ProPublica Illinois, also revealed severely regressive and inaccurate assessments of commercial and industrial properties, but Preckwinkle has said the county currently has no plans to study or address that problem.

"We're focused on residential — one thing at a time," she said at a news conference last month.

"The Tax Divide" series found that residential assessments produced under Berrios were highly regressive, meaning the assessor's office tended to undervalue higher-priced homes and overvalue less expensive properties.

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Most assessors conduct statistical analyses to ensure that tendency falls within acceptable limits, but Berrios' office said it did not follow that practice.

To estimate the cost of the problem on Chicago taxpayers, Berry compiled data on single-family homes and condos that sold in arm's-length transactions — sales that involve unrelated, nondistressed parties.

About 2.5 percent of all homes in Chicago were sold in such transactions during the study period, and the analysis assumes they are representative of other, similar residential properties in the same neighborhood.

Berry then calculated a "fair" tax rate by adding up the total property taxes billed on the sold homes and dividing that number by the total sales price of the same homes. Applying this rate to all of the sold homes produced an estimated "fair" tax bill for each one.

To calculate the tax shift, Berry summed the differences between the estimated fair bills and the actual bills that owners of undervalued homes received. That shift was then extrapolated out to cover the entire city, using four different statistical methods. For example, one method involved calculating the tax shift for each neighborhood before arriving at a citywide number.

Each method produced a similar answer: a total tax shift in excess of $2.2 billion over the study period.

"I start with homes that sold, since we have good information about their market value and their taxes," Berry said. "Then I make some pretty standard assumptions to extrapolate the number to the whole city in a representative way."

Experts said the approach he used is fair and reasonable.

"Berry is definitely on solid ground," said Richard Almy, a former executive director of the International Association of Assessing Officers, an organization that set standards used by assessment officials around the world. "These types of analyses are usually done to evaluate proposed changes to assessment systems."

Experts also said the U. of C. analysis may understate the amount of the property tax burden shouldered by low- and middle-income homeowners because the analysis does not take into account inaccuracies in commercial and industrial property assessments.

The total tax shift from flawed assessments also would be far larger if the entire county were included in the analysis. The study focuses on Chicago because it is the largest taxing district. Other districts have different tax rates.

Berry, the academic director of the Center for Municipal Finance and faculty director of the U. of C.'s Master of Science Program in Computational Analysis and Public Policy, appeared in "The Tax Divide" series because of his involvement with a grant-funded effort to develop a computer model that would reduce regressivity in the county's residential assessments.

Berry also co-taught a graduate-level class with a Tribune reporter in 2016 that examined the county's robust appeals process, finding that it added to the system's problems with regressivity.

The project to improve residential valuations dated to the era of former Assessor James Houlihan and was inherited by Berrios when he took office in late 2010.

Berry said technical limitations prevented officials from using the most accurate models the team created. But eventually the assessor's office settled on a compromise that balanced improvements to the system with the office's capabilities.

In July 2015, Berrios' office issued a news release saying it had implemented "a new state-of-the-art residential assessment modeling technique that assesses the value of homes in different price ranges to improve accuracy." Berry was quoted in the release.

But the Tribune eventually determined the assessor's office never fully implemented the new model, which Berry said came as a surprise.

When questioned by Tribune reporters, officials offered a series of changing responses but ultimately said that the model was flawed and that Berry and others involved had a vested interest in the county using it.

Robert Weissbourd, president of the economic development consulting firm RW Ventures, led the team that retained Berry's services and said both assertions are false. The assessor's criticism distracts from the office's ongoing failure to fix the assessment system, he added.

"Our models are beside the point," Weissbourd said. "It is clear that the systematic overassessment can and must urgently be fixed, and that the public needs full transparency and independent monitoring to ensure the fix is implemented this time."

The Best and Worst States for Property Taxes

According to the U.S. Census Bureau, the average American household spends $2,197 on property taxes for their homes each year. That's no small chunk of change for many households, so property taxes are inevitably a factor when homebuyers are trying to decide where to buy, or where to move. WalletHub recently examined all 50 states and the District of Columbia to determine which states were best and worst when it comes to property taxes.

The good news is, you'll get plenty of sun and beaches along with the money you save in Hawaii, which ranks as the state with the lowest effective tax rate at 0.27 percent. However, the state's median home value of $538,400 might offset that a bit, even for potential homebuyers keen to leave the mainland. For a median-priced home in Hawaii, the annual taxes would amount to $1,459.

Next on the list is Alabama, with a median home price of $128,500 and an effective property tax rate of 0.43 percent, meaning the owner of a median-priced Alabama home would pay $550 in taxes. Rounding out the five states with lowest property tax rates are Louisiana (0.51 percent effective property tax), Delaware (0.55 percent), and, surprisingly, the District of Columbia. Like Hawaii, D.C. has a high median home value at $506,100, but a low effective property tax rate at only 0.56 percent.

What about the other end of the scale? New Jersey takes home the trophy for highest effective property tax rate at 2.40 percent. Jersey homeowners with a median-priced home worth $316,400 would be paying $7,601 in annual property taxes. Coming in second is Illinois, with a 2.32 percent effective property tax rate, which works out to $4,058 in taxes on a median-priced home worth $174,800. The rest of the five states with highest effective property tax rates are New Hampshire (2.19 percent), Connecticut (2.02 percent), and Wisconsin (1.95 percent)

TEXAS - Don't let your appraisal district overvalue Harvey-flooded home

O'Connor, a property tax consulting firm, reports that many Texas Gulf appraisal districts are actively using an inappropriate valuation model as a means for revaluing homes.

While many are still rebuilding after Hurricane Harvey, tax season has arrived, placing a heavier burden on many Texas homeowners.

'As flooded' value

"Appraisal districts are incorrectly calculating the 'as flooded' value of homes impacted by Harvey and only considering the amount of physical damage," said Patrick O'Connor, president of O'Connor. "Market value is based on a variety of factors. Many appraisal districts are ignoring their statutory duty to value property at market value.

"It is not practical to value a flooded house by simply deducting the cost of repairs. Additionally, a buyer for this type of property is typically paying 41 percent of the market value before flooding, based on a recent study by Property Analytix of 345 Houston-area houses."

O'Connor wants homeowners to know that appraisal districts are often valuing flooded homes at double their market value for 2018. Appraisal districts are relying heavily on homeowners to "self-report" and to directly reach out to the appraisal district if their homes were flooded. By depending on self-reporting, only 10 percent of flooded homes are properly valued.

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Port Arthur Mayor Derrick Freeman told CBS News that 20,000 homes had as much as 6 feet of water in them during Hurricane Harvey. However, Jefferson County Appraisal District has only learned of 901 flooded properties in all of Jefferson County as of late January. This is because JCAD is using self-reporting and only revaluing homes if the owner reports the flooding and provides appropriate support, instead of attempting to identify which homes were flooded.

Appraisal districts are mandated to value property at market value by Texas Tax Code Section 23. It is impossible to value flooded property without knowing if it flooded or the amount of the damage.

Even though appraisal district staff find it difficult to revalue flooded properties, it is a requirement by law

PENNSYLVANIA - Recent court ruling opens a door for homeowners to appeal tax bill

Taxes and lawsuits are unpleasant things. Most of us would prefer to avoid them all together and begrudgingly pay an accountant or lawyer to handle them if we must.

Most of us aren't Ruokai Chen. When Chen saw his real estate taxes jump up in 2016, the actuary with a degree from the Curtis Institute of Music decided to do some digging. Using the Office of Property Assessment (OPA) website, he compared his property's assessment with his neighbors' and noticed something funny. So he appealed pro se — no lawyer — and took his fight all the way from OPA to the Board of Revision of Taxes (BRT) to the Court of Common Pleas, where he won, saving himself about $450 a year in taxes.

And that January victory could mean that thousands of other homeowners like him — homeowners taking advantage of the ten-year tax abatement who recently saw the assessed value of their property's land increase while the total value remained the same — might be able to knock a few hundred dollars off their real estate tax bills, too.

What Chen noticed was that his home's land value had gone up considerably compared to the improvement value. A property's assessed value — the city-ordained estimate that's used to calculate real estate taxes — is made up of two components: the value of the land, and the value of the improvements upon the land, i.e. the building. For instance, a shack that's falling apart in a nice part of town may have a total assessed value of $500,000, with a land value of $490,000 and an improvement value of $10,000. A mansion in the middle of nowhere could have the same assessed value with the land and improvement values flipped.

Chen's home was brand new when he bought it in 2015, making him eligible for the city's ten-year tax abatement. Under that controversial development incentive, property owners don't have to pay taxes on the value of their improvements for a decade. It effectively zeroes out the value of a renovation or addition.

But abated properties still have to pay taxes on the land value. And when OPA reassessed all of Philadelphia's residential properties in 2016, many saw their land values increase, but not the total property value. According to a 2016 Pew Charitable Trusts report, 58 percent of the 579,447 parcels in the city saw land values increase. But, "for the vast majority of them, the total property value did not change; increased land valuations were offset by decreases in the assessments of the structures."

When OPA reassessed all city parcels in 2016, the aim was to correct a problem with the prior citywide reassessment in 2012, the Actual Value Initiative, which some complained assessed land too low compared to improvements. After the second assessment, Pew reported that 23,157 residential properties, or about four percent, saw their property taxes increase because of the land value shift. (That excludes properties that saw their taxes rise because their entire property value went up.) At the time, there were 6,762 properties that saw taxes increase because while they were taking advantage of the ten-year tax abatement, their and land assessments rose even as the overall property values remained the same. (There were 15,118 abatements in effect at the time.) The median increase in taxes then was $480 — about the same increase that Chen saw.

While those numbers are no longer up to date, they provide a general idea of how many properties may be able to challenge the assessment on their land values alone.

After the 2016 assessment, the city kept Chen's total property value at the same price he bought it for a year prior — no problems there. But his land value jumped significantly while the improvement value dropped. At the same time, Chen says, plenty of properties near him — properties that weren't taking advantage of the ten-year abatement — didn't see a similar

increase in their land values. Two doors down from him, an older property twice as large as Chen's yielded a land assessment half as big.

"As I looked into this a little more, it became apparent that there was just some inconsistencies, which led me to start the process for an appeal," said Chen.

Chen decided to appeal just the land assessment, seeking to see it decreased and the value of his improvements increased.

OPA denied his initial appeal, so Chen went to the BRT. At his BRT hearing, Chen says, the city argued that he could not appeal just the land value. "What their attorney said was the Board does not have the power to hear these types of appeals," said Chen. The BRT agreed and denied Chen's appeal again. So he decided to appeal again, this time to the Court of Common Pleas. When the city ordered another assessment in preparation for the trial, Chen asked the assessor to separate land value and improvement value in his report. That report appraised the land at about 30 percent less than what was on Chen's tax bill.

But at Common Pleas, Judge Gene Cohen reversed and ordered Chen's land value decreased from $113,150 to $79,000 in 2017 and $82,000 in 2018.

"The judge indicated that this was an issue of first impression before the court, which was one of the reasons I didn't want to settle," said Chen. If the city tries to raise his land values, again and again, argues that the BRT can only hear appeals to a property's total value, not its individual parts, Chen will have the order on hand to prove otherwise. Chen believes many other homeowners like him had their appeals denied by BRT on the same argument that Judge Cohen rejected — that BRT can only hear appeals about a property's total market value, the value of just the land.

BRT Executive Director Carla Pagan doesn't deny that many homeowners appealed after the 2016 assessments and lost. "State law says that the Board can set the market value or adjust the market value at an appeal hearing and in most of the cases where people specifically had land arguments, most of the appeals, where they just challenged land, but they were satisfied with their overall assessment – most of those appeals were denied," she said.

But, according to Pagan, it isn't the BRT's policy to deny appeals that challenge land value, but not overall value, as a matter of law. "The board has made decisions that impact land value only, and they've done that on more than one occasion."

"Thousands and thousands of people appealed for tax year 2017 — angry, specifically, about their land value increases. And most of those cases were actually denied," Pagan said. "I'm not saying they were denied because the Board said, 'Oh we can't.' Those cases were mostly denied on the merits."

If every homeowner in Chen's situation appealed like he did and won, it could cost the city upwards of $5 million a year in lost property revenues, 55 percent of which goes to the School District. Mayor Jim Kenney called for a six percent property tax increase on Thursday. If the tax hike moves forward, it would be Philadelphia's fifth increase in the last decade as the city continues to struggle to cover the school district's rising charter costs and pension obligations.

Ohio's System for Challenging Property Values and Taxes

This year's April 2 deadline for property owners to challenge the county's assessment of their property values is looming and the process can be more complex than many expect. Patrick J. Heery, a real estate attorney with Columbus-based Bluestone Law Group, provides an overview of why and how property values and taxes may be appealed.

Ohio has a system by which county auditors must reappraise every parcel of land and building located in their county on a repeating six-year cycle. Those values, multiplied by local tax rates, result in the amount that property owners pay in real estate taxes. Avenues are available to both residential and commercial property owners to challenge the value of their properties. If successful, owners can reap the benefit of slashing their tax bills, often for very significant amounts.

How property values are determined

Each auditor in Ohio's 88 counties works on a six-year cycle to determine property values and keep them up to date. Year 1, referred to as the reappraisal year, is when the county auditor views the properties and conducts a full reassessment of their values. In many smaller counties, the auditor's appraisal staff will drive around looking for changes made since the last

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assessment. Today, in most larger counties, auditors depend more on aerial photography or drones to photograph properties and then use sophisticated computer programs to measure and document recent physical changes made to the properties. Once the auditor determines the reappraisal value, it generally stays in effect for Years 2 and 3 of the tax cycle unless the property is sold, a casualty occurs to the property or an improvement is added.

Year 4, referred to as the update year, is when county auditors make adjustments to property values based upon data gathered from sales that occurred in Years 2 and 3, with analysis provided by knowledgeable market participants like real estate brokers and investors, and economic reports. Values generally remain the same for Years 5 and 6, again, unless the property is sold, a casualty occurs or an improvement is made.

Tax Year 2017 was the reappraisal year for 28 counties statewide. In 2018, 19 counties are going through the reappraisal process and Tax Year 2020 will see 11 counties undergo reappraisals. This staggered cycle was established for administrative efficiency.

Challenging property values

Normally, owners can challenge a county auditor's valuation just one time in each three-year cycle (a triennium). Property values are challenged via a "Complaint Against Valuation" that is filed with the local Board of Revision (BOR). The same complaint form, which asks 14 questions about the property, is used statewide. It can be downloaded from nearly all county auditor websites as well as from the Ohio Department of Taxation's website. It is important to fill out the form carefully because incorrect information can result in the dismissal of a case.

In Ohio, property owners pay taxes for periods of time that have already passed – so you may hear that owners are paying taxes one year in arrears. We always look back in time when it comes to paying real estate taxes and discussing property values. Right now, property values for 2017 are the focus of attention. So, property owners who file a complaint before the April 2, 2018 deadline, are contesting the value of their property as it was on Jan. 1, 2017.

Common reasons for challenging property values include declining market values for similar properties, declining rents coupled with increased expenses and vacancies, a property that has become functionally or economically obsolete, and damage or destruction, whether caused by fire, flood, ground movement, mold or wind. In addition, people who recently purchased a property in an arms-length transaction (when both buyer and seller act independently) for less than the county auditor's value, often have a strong basis for filing a tax appeal.

A good rule of thumb: If you feel there is no way your property can sell for as much as the auditor's value, consider calling an attorney to get help filing a complaint.

The complaint process

Once the complaint is received, the BOR will take two actions. First, if the owner is seeking a decrease in property value of more than $50,000, the BOR will notify the local school district. School districts generally receive between 65 percent to 70 percent of property taxes collected, meaning that they are the government entity most affected. If the school district decides to become involved with the owner's case, its counsel is allowed to cross-examine the owner's witnesses and to present its own evidence of the property's value.

The second action taken by the BOR will be to schedule a hearing. Usually hearings occur during the summer and fall months and last about 15 to 30 minutes. The county auditor, county treasurer and the president of the Board of County Commissioners (or members of their staffs) sit on the panel. The BOR typically issues its decisions within 2 to 4 weeks after the hearing. If an owner is unhappy with the BOR's decision, an appeal can be filed with the Ohio Board of Tax Appeals or the local County Common Pleas Court.

Legal guidance

Attorneys can come in handy during a property tax appeal in several ways, often saving their clients money in the long run.

In these cases, property owners carry the heavy burden of proving that the auditor's value was wrong; in contrast, the county does not need to prove that the auditor's value was correct. This means that owners need to submit reliable, meaningful evidence to establish the property's true market value as of Jan. 1 of the tax year at issue. In cases where high amounts of tax dollars are involved, the local school district will always be represented by skilled counsel who will aggressively work to get

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cases dismissed on jurisdictional grounds, often before property owner even has an opportunity to talk about the merits of his or her case; thereafter, the school district's attorneys will challenge and critique the appraisal evidence submitted by owners.

An attorney who is knowledgeable about this area of the law and who has experience appearing before boards of revision can be critical to winning your case. Attorneys can help owners in assembling the necessary evidence, whether by identifying the correct purchase transaction documents to present to the BOR panel or hiring a skilled appraiser and then reviewing the appraisal report to make sure that its value conclusion is well-supported and reasonable. And, most importantly, these lawyers will have the skillset and knowledge of changes to the tax code and case law that will allow them to rebut any legal arguments made by the other side.

NEW YORK - With property tax, take from the middle and give to rich

The chances are that if you've spent enough time sipping coffee on Staten Island, or in any other outer-borough diner, you certainly overheard this conversation from a neighboring table, perhaps in the most emphatic of Queens baritone voices: "Can you *buh-lieve ...* that Bill de Blasio has a $2 million house in Park Slope and pays less tax than I do in my Kew Gardens semi?" Maybe it wasn't in a diner. It could have been around the table of an Annadale firehouse, or a teachers' lounge in Brooklyn. The point is: Middle-class New Yorkers are dumbfounded to learn that some of the city's wealthiest residents in its posh neighborhoods are paying much less effective tax rates then average homeowners.

What should surprise and scare them most is that despite any assumptions of the mayor pulling strings, his property tax bill is both legal and accurate according to our antiquated property tax system. They can call the mayor any name they want, it feels good; but the truth is that our state laws deserve the brunt of public anger.

Section 1805 of New York State Real Property Tax Law bars city property assessors from raising the taxable assessment on one-to-three family residential homes (Class 1) more than 6 percent in any year or more than 20 percent in any five-year period.

Overall, this provision is a good. It prevents new homeowners from being quickly burdened by higher and unpredictable taxes in "hot" real estate markets and prevents older long-term owners from being taxed out of their homes from steady growth.

However, the law provides sensible instances where the effective cap gets reset. If you subdivide a property, the new tax lot will be assessed at the actual market rate. If you put a new extension on the house, or knock it down and rebuild, you'll also be assessed at the new value.

This makes sense under the basic idea of fairness. Property taxes are meant to be an *ad valorum* tax, so in theory all owners are charged the same rate on the value of their property. If you knock down a small house and build a $2 million mansion, you should be taxed on the new $2 million value; and going forward, that mansion owner would still be protected under the cap.

Unfortunately, there is a quirk in the law. If a purchaser buys an old home whose owner has been the beneficiary of the tax cap, the new purchaser is still protected under the same assessment increase laws as the last owner. The cap is attached to the property, not the owner, and the result creates vast disparities between the city's wealthy and middle-class homeowners, and among wealthy homeowners themselves depending on when their homes were built and the characteristics of the market.

For example, let's compare two fictionally funny families, the Huxtables and the Heffernans.

The Cosby Show family lived in Brooklyn Heights in the 1980s. They were gentrifiers, and bought their brownstone at a time when the market was significantly lower. Although "10 Stigwood Ave." doesn't exist, there are plenty of comparable properties. Assume Dr. Huxtable was the buyer of 28 Garden Place when it was sold for $315,000 in 1982.

He lived there happily for 33 years, but decided to pack it in for the Del Boca Vista retirement community in 2015.

In the time he owned the property, he was protected by the state's cap and paid his final year of taxes on the effective market rate of $1.4 million. That year, the property was sold to a new owner, who paid $5.2 million for the brownstone in what had become one of the most desirable blocks in the city. Instead of paying taxes on the new value, the new owner is assessed only on the existing effective value of just $1.5 million, despite the actual sale price and despite the city actually assessed the 2016 value at $6.1 million.

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On the other hand, *The King of Queens* bought 6215 Boelsen Crescent in Rego Park, Queens, in 1994, where they lived until early last year. The Heffernans were protected by the same tax cap, and in their last year of ownership paid taxes on an effective market value of $722,000. The home sold for $1.2 million and this new owner also paid property taxes on the effective market rate, which climbed only 6 percent under the law to $764,350.

Both properties are undervalued, and both new owners are protected by a tax cap that unintentionally covers them. The main difference is this, however, excluding for deductions (Veterans, STAR etc.) the Queens owner is paying an effective tax rate of roughly 0.8 percent of the total value of their house, while the new Brooklyn Heights owner is paying an effective tax rate of just 0.35 percent of the total value.

In raw numbers, the Rego Park owner will pay about $9,300 on a house valued at about $1.2 million, while the owner of a house worth nearly five times as much will only pay double that, just $18,000.

What's worse? If a person is buys a relatively new house in the same year worth the same $1.2 million, the new owner is not protected by the tax cap as a new building is reset under Section 1805, and will pay $14,000.

These aren't the exceptions; this is the norm. An in-house 2015 quality assurance review by the Department of Finance demonstrated that the problem is systemic. Certain neighborhoods are on average being assessed and taxed significantly less than those in other boroughs, and in some cases, just blocks away.

The study specifically confirmed: "Most of this undervaluation seems to be driven by Brooklyn, where market value change caps on increases prevent valuations from keeping up with increasingly high sale prices."

According to the department's own sampling data, the weighted mean time-adjusted sales ratio for Brooklyn was .885. Loosely translated, that means that on average, Brooklyn's homes were assessed and taxed at 88.5 percent of their actual sale price, and well under established assessing guidelines.

Compare that to Staten Island and the Bronx, where homeowners were taxed on 98.5 percent and 98.1 percent of their homes' value. When it's broken down further, we can see that this is actually not driven by a boroughwide market value increase, but rather just certain highly desirable Class 1 residential neighborhoods.

For example: Parts of South Williamsburg and Prospect Heights are assessed at less than 80 percent; Park Slope, Bed-Stuy and Clinton Hill are between 80-90 percent; while Canarsie, Flatbush and Dyker Heights are assessed within industry guidelines of 95-105 percent of their actual values. In Brownsville, homeowners on average pay over 105 percent.

The inherent unfairness is just part of the problem, as the undervalued assessments also lead to a potential loss of significant revenue. The total tax levy from Class 1 properties was $3.62 billion in FY 2016, the same year the quality assurance study determined that the citywide sales ratio, driven down by the undervaluation in Brooklyn, was 93 percent.

Bringing that number up just 5 percent through a reform of Section 1805 to industry standards would raise $180 million, which could be used to offset the need to raise tax rates on all Class 1 homeowners to meet the levy.

In the mayor's latest budget proposal, he is planning for property taxes to balloon $4.6 billion, or 15 percent, over the remainder of his term. While much of this can be achieved through new developments and an increase in market values, the ability to generate new revenue from an equitable and more fair system would help avoid the type of rate increases Class 1 properties have continuously seen since the Bloomberg era.

Reforming Section 1805 should be relatively easy, so long as there is the will in Albany and the support of the mayor and City Council. A simple amendment to add the market value sale of a property to the list of conditions that causes a reset of the cap would do the trick. The undervalued neighborhoods are all "hot" real estate markets where properties often change hands, and the quick turnover and resets will raise the ratio in a matter of years.

The political will *should* be there; after all, this is something that actually increases revenues without raising rates. Additionally, this will not impact existing homeowners, as only prospective sales after the law is signed would be affected. Politicians need not worry about a wrathful constituent, as ideally the goal would be to prevent the type of tax hikes they fear.

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And, finally, this could serve as a natural disincentive to gentrification of neighborhoods, which has become a serious concern for many legislators. This would keep the tax cap for those folks that are already in place, but force new buyers to pay full taxes on the high-priced homes they purchase, essentially eliminating old brownstones as tax havens for wealthy investors.

This is a scenario where everyone can win, even de Blasio. Perhaps if we let him call it an effective millionaires' tax he'd be on board. As long as existing homeowners aren't seeing a rate hike, I doubt they would care.

NEW YORK - State must pay its fair share of tax

Full payments support Adirondack, Catskill communities while preserving the environment, outdoor recreation

We all benefit from the state Forest Preserve in the Adirondack and Catskill parks, and we should all be willing to pay our fair share of taxes to the local communities that are home to them.

We benefit by our own personal use of millions of acres of state-owned forever wild land by being able to access it for hiking, fishing and other forms of outdoor recreation.

We benefit collectively from having a clean environment unspoiled by industry and housing.

And we benefit financially as state taxpayers from the tourism dollars that flow into the state budget through economic development and sales tax revenue generated by the 16 million people who visit the parks every year.

For the local towns, counties and school districts that are home to all of this state-owned land, the property taxes paid by the state of New York are essential to their survival.

Without this revenue, the tax burden would be passed on to a small number of private-property owners and businesses who all are required to pay their fair share of property tax to live there.

In some communities, state-owned land makes up a significant portion of the local property tax rolls, in some cases 50 to 90 percent.

For those communities, a decrease in state tax payments could be devastating, and perhaps fatal, to their survival.

So New Yorkers need to rise up against a proposal in Gov. Andrew Cuomo’s executive budget that would eliminate the state’s regular tax payments on the forever wild portion of Forest Preserve land and substitute it for a payment in lieu of taxes (PILOT).

The plan would cap annual payment increases at 2 percent, or the rate of inflation, whichever is less.

Under the plan, counties and other government entities would potentially lose millions of dollars in annual tax revenue.

By switching to a PILOT agreement, the state would not be subject to local property assessments and essentially could determine for itself how much it wanted to pay on the land it owns.

The state currently pays about $70 million a year in taxes on the forever wild land it owns.

That sounds like a lot of money until you consider we’re talking about hundreds of thousands of acres of land and the fact that the payments make up just 7-one-thousandths of a percent of the state budget.

State taxpayers’ obligation to help support the small communities that host forever wild land in the Adirondack and Catskill parks with full taxes goes back to 1885, more than 130 years.

It’s the price we’ve all agreed to pay to have these amazing national resources available to us and to future generations.

And it’s an obligation we must continue to uphold.

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NEW JERSEY - Your property taxes just jumped by more than 50 percent. Now what

The downside of skyrocketing home values and higher demand: rising property taxes.

In one neighborhood in Jersey City, New Jersey, the average tax burden will rise to $29,026 from $16,591, an increase of nearly 75 percent.

The new tax law caps deduction on state and local taxes at $10,000.

The good news for some homeowners in one town: The average assessed value of a house in your neighborhood has skyrocketed by more than eightfold, climbing from about $212,000 to $1.8 million.

Now for the bad news: Your property taxes are going up as well, to just over $29,000 from an average of about $16,500 — and you'll only be able to deduct the first $10,000 on your taxes.

That's the situation facing some homeowners in Jersey City, New Jersey, as the rapidly gentrifying city performs its first round of reassessments since 1988.

The traditionally blue collar town, which sits directly across the Hudson River from New York City, is an extreme example, but it isn't alone.

Property taxes, for instance, are up 38 percent year-over-year in Clark County, Nevada – home to Las Vegas – raising the average 2017 tax bill on a single family home to $2,445 from $1,774, according to ATTOM Data Solutions, a provider of real estate data.

Home prices there have risen by 100 percent over the last five years, according to ATTOM.

Meanwhile, homeowners in Williamson County, Texas — just outside of Austin — experienced a 15 percent tax increase last year. Owners of single family homes paid an average of $6,697 in property taxes, up from $5,837, according to ATTOM.

Over the last five years, home prices there have risen by 80 percent.

"The story is that people are moving to these markets, and they're experiencing rapid home price appreciation," said Daren Blomquist, senior vice president at ATTOM.

"It doesn't just affect the people who are willing to pay for the homes and the property taxes," he said. "There is a ripple effect on neighbors who might have been there for 20 years, and their taxes go up as well."

Here's how to contend with skyrocketing property taxes.

Monthly crunch

For Keren Vered, a Jersey City resident, community activist and fashion industry consultant, the $18,000 tax hike on her townhouse translates to an additional outlay of about $1,500 a month.

That's on top of the $10,000 she already paid annually in property taxes prior to the city's reassessment. Then there are other regular monthly costs she'll need to weigh.

"For me, it's not just the $1,500 a month, but the private school part of it, too," said the mother of two, ages 2 and 4. "Year over year, plus private school, I worry about the long-term sustainability of it."

The family has a lever available to help contend with the tax increase: They already rent out one floor of their three-story townhouse. Even so, tenants can only handle so much of an increase in their rent.

"I'm trying to get the city to where other families like mine would want it to be," said Vered. "Rents going up create a barrier to entry."

Tax strategies

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Homeowners like Vered face an additional difficulty: Prior to 2018, they were able to claim all of their property tax liability if they itemized on their taxes.

With the Tax Cuts and Jobs Act now in place, residents can now only claim up to $10,000 in state and local tax deductions.

Residents in New York, New Jersey and California are among the hardest hit.

SALT in the wound

The $10,000 cap on state and local taxes are a blow to just a handful of states.

Plus, fewer filers are expected to itemize in 2018 because the new tax law has doubled the standard deduction to $24,000 for a married couple filing jointly. Under the previous law, about 49 million taxpayers — roughly 3 in 10 individuals — filed itemized returns, according to the Urban-Brookings Tax Policy Center.

Accountants point to a couple of strategies homeowners facing big tax hikes can take.

Home office break

An entrepreneur working from home can take a home office deduction in one of two ways. First, there's the "safe harbor" method in which you deduct $5 per square foot for an office that's up to 300 square feet.

You can also calculate your deduction based on your actual expenses, figuring out the percentage of your home used for the business.

This method considers the percentage of home costs, including real estate taxes, attributable to the office, according to S. Andrew Smith, a CPA and principal at Baker Newman Noyes in Portland, Maine.

The "actual expense" method also deducts for depreciation, and you will pay taxes on that when you sell your home, Smith warned.

You do not need to itemize on your taxes to grab the home office deduction, but you do need to show a profit from a home business in order to take it.

Rent it out

Whether you have a duplex or a spare room, consider taking on a tenant.

"You'll pay the property tax one way or the other, but at least you have some rental income to help pay for it," said Tim Steffen, director of advanced planning for R.W. Baird's private wealth management group in Milwaukee.

As a landlord and a small business, if you become a pass-through entity — an LLC or an S-corporation — you may be eligible for a 20 percent deduction for qualified business income.

If you rent out your home, be sure to track your expenses and talk to your insurance agent. "If you use it as a rental property, even partially, your insurance coverage needs will change," said Smith.

Report your rental income or loss on Schedule E when you file your taxes.

On the other hand, if your rapidly appreciating property is in a prime destination, consider that you won't have to claim the rental income if you rent your space for less than 14 days over the year.

Fight back

Finally, if you disagree with your municipality's assessment on your home, you can contest the findings.

Get to know your city's appeal's process, which can be deadline sensitive and will vary from one town to the next.

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Expect to gather evidence of your home's market value, too.

You can hire an appraiser to provide your city's tax assessor with reports and comparable property values to back up your findings, said Brigid D'Souza, a CPA and founder of Civic Parent, a website that follows property tax developments in Jersey City.

The national average cost of hiring an appraiser is about $329, according to HomeAdvisor, a home improvement website.

You can also hire an attorney on a contingency basis to represent you through the appeals process, which typically costs one-third to one-half of your first year's tax savings, D'Souza said.

While a licensed realtor can't give you an appraisal, he or she can provide you with comparative sales which can act as evidence of market value, said D'Souza.

"Comparables are best if you can say that this home is assessed at what yours should be, and you have similar square footage and features," said Steffen. "But be careful: They could raise your neighbor's taxes."

NEW HAMPSHIRE - Policy experts differ on significance of New Hampshire's 3rd highest property tax rates

Since New Hampshire doesn't impose income and sales taxes, it’s not surprising that the state has among the highest property tax rates in the nation. What might be surprising is exactly how high the Granite State ranks – third highest, according to one analysis.

The report from WalletHub released this week showed that only Illinois and New Jersey have higher property tax rates than New Hampshire. Assuming a home with a $185,000 value, a typical annual property tax burden in New Hampshire would be $4,038.

WalletHub also offered a ranking of the expected property tax payment for a home at the state’s median value, which would take into account that some states generally have homes with higher values than other states. New Hampshire again came in third in this ranking, with an annual property tax bill of $5,241 on a median home value of $239,700. That ranked behind only New Jersey and Connecticut.

The data that WalletHub used came from the U.S. Census Bureau. The report also listed vehicle property tax rates, where New Hampshire ranked 41st with a rate of 1.8 percent, which works out to a $432 tax on a $24,000 car. Rhode Island had the highest rate at 4.77 percent, equivalent to a $1,144 payment on the same car. Almost half of U.S. states, 24, charge no vehicle property tax at all.

J.Scott Moody, CEO of the Granite Institute, a nonprofit organization that studies the business climate and taxation in New Hampshire, said that the state’s high property tax rate isn’t the burden that it might appear to be at first glance. For one thing, other states have so many other taxes on their books that it becomes difficult for taxpayers to get a true sense of how much money they’re sending to the government each year.

“It's a very transparent tax, and so people understand it,” Moody said. “When it gets out of hand, you can march down to City Hall or the town meeting and get more action than you can if you were, say, in New York, you've got to go to Albany [to fight a statewide sales or income tax levy] – you and 30 million other people. It's a lot harder to get things done.”

Moody also pointed out that because property taxes are different from community to community, taxpayers can simply move to another town to reduce their burden if it’s too high. Residents of a state with income or sales taxes would need to move to another state to achieve the same effect.

“You've got a lot of these old mill towns, for example Claremont or Berlin, where the industry died, so property taxes are very high,” he said. “But you can move across the border into some of the smaller towns and your property tax rate drops tremendously.”

WalletHub analyst Jill Gonzalez echoed Moody’s assertion that the high property tax wasn’t necessarily the negative it might appear to be.

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“The lack of sales and income tax does, for the most part, balance things out,” she said. “Hawaii, for instance, has low property tax rates, but very high state income tax rates."

Gonzalez also said that while property owners in New Hampshire bear the direct burden of most funding of government, those costs get passed on to other residents.

“Generally, the taxes imposed come back as higher costs associated with goods and services, so everybody pays their fair share," she said.

Tod Buckvar, president of Realty Tax Challenge Corp, was consulted by WalletHub to evaluate their report. His firm helps businesses and individuals fight to lower their property tax bills, and he expressed skepticism at the use of property taxes to fund government.

“[Local tax policy] should be adjusted to rely less upon property taxes, as eventually, this system will not be sustainable,” Buckvar wrote. “People will no longer be able to live in those areas as they will no longer be able to pay the taxes, which will result in the bankrupting of the municipalities. Peoples’ wages and compensation cannot keep up with the tax increases.”

Another consultant for WalletHub, Todd Minear, is a financial advisor and president of Open Road Wealth Management. He cautioned that focusing too much on the expense of property taxes misses the whole picture.

“Only comparing property taxes could give bias to the region with lower property taxes, as such a region may have other taxes, such as state, local, sales, and earning taxes that are higher than in the higher property tax region,” Minear wrote. “In other words, a property tax to property tax comparison could be the same as comparing apples to oranges. For a true apples-to-apples comparison, all taxes should be included in the analysis.”

To Moody, the high property taxes are a necessary feature if the alternative is high income and sales taxes seen in other New England states.

“The transparency, I think, is an undervalued asset of the property tax,” he said. “New Hampshire has a unique style of government, all the way up to the state government. We have a lot of governance, a lot of ways that grievances can be addressed. If you believe in federalism, maybe high property taxes is just the price Granite Staters pay to have that local control.”

NEW HAMPSHIRE - Current use system raises questions on fairness, cost

Lyme selectman says law unfairly hurts rural towns

For nearly half a century, the current use law has been the primary means New Hampshire and other states use to preserve open spaces and protect natural landscapes. Public support, at least in the Granite State — anchored by the timberland owners, farming community and a broad array of environmental and conservation organizations — is wide and deep, based in large part on claims that the program not only bears no cost to taxpayers but also more than pays for itself.

But Bradford “Rusty” Keith, a selectman from Lyme, while supporting the conservation and environmental purposes of the current use program, challenges what he called “the tax scheme” underpinning it.

“I agree with the deal,” he remarked, “but we’ve never measured the cost of the deal.”

He estimates the program costs property taxpayers some $118 million a year, a burden borne disproportionately by the property taxpayers of small rural municipalities. Like the funding of an adequate public education, Keith contends that since current use is a state program that municipalities are required to administer, its cost must be “proportional and reasonable” as the state constitution prescribes.

Keith recently spoke before the House Municipal and County Government Committee in support of House Bill 1210, which would convene a committee to study “the effect of current use taxation on small and rural municipalities.”

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The bill's sponsor, Rep. Francis Gauthier, R-Claremont, told the committee that because 70 percent of the land in Claremont is enrolled in current use, it generates a total of just $50,000 in property tax revenue. The program brings "hurt and pain to low-income property owners" left to shoulder the tax burden, he said. "Please do something about the property taxes."

At the suggestion of Sen. Bob Giuda, R-Warren, one of the sponsors, the committee, by a 14-0 vote, amended the bill by referring the issue to the Department of Revenue Administration and the Assessing Standards Board. The bill directs the agencies to report on the valuation and assessment of land enrolled in current use and the financial impact of current use on small, rural towns.

The bill also instructs the agencies to consider whether the practice of taxing lands under permanent conservation easements as if they were enrolled in current use is constitutional. The agencies are required to report by Nov. 1.

Rural vs. urban

The NH Legislature enacted the current use law in 1973, five years after voters approved a constitutional amendment to allow land to be taxed according to its current use rather than its ad valorem, or fair market, value. The program was introduced as rapid population growth increased land values, prompting owners of farmland and woodlots to sell properties on which the property taxes eroded or exceeded the economic returns.

The program is administered by the Current Use Advisory Board, which is composed of state officials and gubernatorial appointees. Each year, the board prescribes a range of values for the assessment of land enrolled in the program.

Parcels of at least 10 acres of farm or forest land, along with wetlands and unproductive land, may be enrolled in current use.

Farmland is currently assessed between $25 and $425 per acre. White pine forest with documented stewardship is assessed between $66 and $99 per acre and without stewardship between $110 and $165 per acre. Hardwood forest with stewardship is assessed between $28 and $43 per acre and without between $47 and $71 per acre. Unproductive and wetlands are assessed at $20 per acre. If land in current use is not posted but open to recreation — hunting, fishing, hiking, skiing, snowshoeing and nature observation — it qualifies for an additional 20 percent reduction in assessed value.

There is no buyout provision in the program. When land in current use is sold or transferred, it remains enrolled. But if the land is either developed or put to a disqualifying use, a land use change tax equal to 10 percent of its "full and fair value" is charged.

Today, 3,008,456 acres — more than half the land area of the state — is enrolled in current use, and virtually half of it qualifies for the recreational discount. Forest land, with and without stewardship, covers 2,623,405 acres, or 87 percent, of the land in current use. The 204,353 acres of farmland account for 7 percent of the total, while 180,698 acres of unproductive land and wetland make up the balance.

Land in current use represents at least 60 percent of the area of 85 municipalities, mostly small, rural towns. On the other hand, some cities and larger towns may have a third or a quarter of land in the program, but others less than 10 percent or as little as 2 percent.

'Principal underpinning'

Advocates of the current use program cite cost of community services studies to quantify its benefits. These studies conclude that development, especially residential development, stokes demand for municipal services — schools, roads, waste disposal, water and sewer systems, police and fire protection and so on — the cost of which exceeds the property tax revenue generated by developed properties. On the other hand, even the modest revenue from open space enrolled in current use exceeds the cost of the services it requires.

Moreover, they refer to other studies that stress the economic value of land conservation.

Jasen Stock, executive director of the NH Timberland Owners Association, told the House committee the program is "the principal underpinning of timberland ownership," which supports an industry with an annual output worth $1.9 billion that employs more than 6,000 people.

Rob Johnson II of the NH Farm Bureau Federation described current use as "the foundation of working farms," adding that more than 4,000 commercial farms manage 470,000 acres and report annual direct sales of more than $479 million.

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According to the Trust for Public Land, every $1 invested in land conservation returns $11 in the value of natural goods and services. The Outdoor Industry Association estimates that outdoor recreation sustains some 79,000 jobs and produces $528 million in state and municipal tax revenue.

Keith, the Lyme selectman, does not dispute these findings, but instead calls them “irrelevant.”

The property tax, he explained, “is not a consumption tax,” explaining that taxpayers do not pay only for the municipal services they receive. Instead, he said, “the property tax is a distribution tool for sharing the costs of town services among all property owners according to the value of their property.”

He noted that less than a quarter of households in Lyme include children of school age, but the other 78 percent are also taxed to fund public education.

“There is a lack of transparency,” Keith said. “The taxation scheme dramatically impacts the determination of the local property tax rate, but the cost is hidden in the calculation of the tax rate and it is not reported.”

The Lyme example

The impact on the property tax rate, Keith said, is a function of the extent of land enrolled in current use in a municipality and the difference between the fair market value and current use assessed value of that land.

Municipalities report the fair market value of property annually to the Department of Revenue Administration, which conducts the equalization process to ensure equitable allocation of state and county property taxes. Lowering the assessed value of land enrolled in current use reduces the tax base and increases the tax rate.

For example, in Lyme there are 26,440 acres, or 92 percent of the taxable land area of the town, assessed at current use rates. This acreage includes 6,961 acres subject to perpetual conservation easements, which are treated as if enrolled in current use. Keith questions whether land whose owner has surrendered the right to develop it and is forever protected against development should qualify for a tax incentive intended to forestall its development.

In the 2017 tax year, the market value of all property was $459,917,450, of which $81,513,250 represents the market value of the land enrolled in current use.

The discounted assessment of this acreage amounts to $79,216,850, a reduction of 97 percent, shrinking its assessed value to $2,296,400.

Keith calculates that the discounted assessment represents $1,751,680 in shifted property tax burden. “In the town of Lyme, that is the taxpayers’ cost of the current use benefits,” Keith said. “It adds $5.08 to the 2017 tax rate.”

Like other municipalities, Lyme provides exemptions for the blind, elderly and disabled as well as a credit for veterans. The exemptions amount to $4.9 million, and $42,000 is appropriated for a veterans’ credit. In addition, there is tax-exempt property in the town with a market value of $30.3 million.

Altogether the exemptions, credits and tax exempt property represent $1.81 of the tax rate, less than half the cost of the current use discount.

‘A state tax’

According to Keith, the cost of current use is shared among all property owners, including those with land enrolled in the program, since all must pay the additional $5.08 per $1,000 of assessed property value. He has calculated that the 316 property owners with land in current use pay $759,733 of the $1,751,680 while the balance of $991,947 is borne by remaining property owners in town.

That means, according to Keith, current use raised the tax rate in Lyme by $5.08, from $22.11 to $27.19. Consequently, he said, while the property taxes of 205, or 65 percent, of those with land in current use realize a net tax savings, the tax liability of the remaining 111, or 35 percent, is greater than it would be without the current use program.

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For instance, without current use a property in Lyme with a market value of $460,000 would be taxed at a rate of $22.11 and have a tax bill of $10,170. But the same property with a current use discount of $60,000, but taxed at the higher rate of $27.19, would have a tax bill of $10,876.

“The tax scheme works against itself,” Keith said.

The property taxes generated by the acreage in current use amounts to $62,439, or 0.6 percent of the more than $9.4 million to be raised by property taxes by the 2018 budget.

Lyme is among a number of small, rural municipalities with large but varying shares of land in current use. Since the current use discount reduces municipal valuations disproportionately, it increases municipal tax rates disproportionately.

While adding $5.08 to the tax rate in Lyme, the program adds only a penny to the tax rate in Nashua. “The owner of a $46,750 property in Orford pays more for current use than the owner of a $25 million property in Nashua,” Keith said.

Keith said that the current program is a state program. “Towns can’t opt out,” he explained. “The current use board is attached to the Department of Revenue Administration. It makes the rules and sets the range of assessments.”

That makes it “a state tax,” Keith said. As such, he claims, current use taxation is contrary to Part II, Article 5 of the Constitution, which the Supreme Court has taken to mean that “all taxes be proportionate and reasonable.”

He added that in deciding the school funding suit brought by Claremont, the justices held “no state tax that uses different methods or rates of taxation from town to town can ever pass muster under the New Hampshire Constitution.”

‘Potentially regressive’

University of New Hampshire Professor Richard England, writing in “Land Lines,” published by the Lincoln Institute of Land Policy in Cambridge, Mass., noted that “when the properties of farmers, ranchers and forest owners are assessed far below market value, local governments collect fewer property tax receipts unless they raise the tax rate that is levied on all taxable properties. If they raise their property tax rates to maintain public expenditure levels, rural towns and counties increase the tax bills of non-use value assessment owners, primarily homeowners.”

He added that “this potentially regressive impact of use-value assessment programs has been known for decades” and that in 1976 the President’s Council on Environmental Quality “stated clearly that these state programs result in tax expenditures of significant magnitude that redistribute income among taxpayers.”

In a working paper, Jane Malme of the Lincoln Institute for Land Policy wrote that a number of states, including Vermont and Maine, reimburse local governments for the loss of revenue associated with current use taxation.

Keith said the flaws in the current use program can be overcome by distributing its costs equitably throughout the state.

He estimated the statewide cost of funding the current use program at approximately $118 million, while the total assessed value of property is more than $154 billion. He calculates that a tax rate of 77 cents per $1,000 of assessed value in every municipality would distribute the cost of the program proportionally as the Constitution requires.

MISSOURI - KCI Marriott loses appeal, set to pay $2.3M to county

A Kansas City International Airport hotel lost a tax appeal and will have to pay $2.3 million in taxes after a hearing in front of the Missouri State Tax Commission.

On Tuesday, Jan. 16, the state office decided in favor of the Platte County Assessor’s Office regarding the Marriott Hotel property at KCI, ending an appeal that has been ongoing since 2016. The hotel operated by Grady Hotel Investments presented true value money of $0.

The Marriott Hotel at Kansas City International Airport recently lost a tax appeal heard by the Missouri State Tax Commission. Platte County argued the property value to be $7.3M, while the hotel's owner, Grady Hotel Investments, valued it at $0 after buying the property and doing renovations. Grady will have to pay $2,336,000 in past taxes to the county.

Meanwhile, the assessor's office used evidence of the sale of the property on April 29, 2015 for $8.5 million in their evaluation of the property located at 775 Brasilia Ave, Kansas City, Mo.

The court took the value of the property and subtracted construction cost of $1.2M, which brought the final total to $7.3M. The tax on that assessed value came in at $2.336M.

The hotel was first constructed in 1974 and an addition was added in 1988, bringing the total hotel rooms to 384. The business also has meeting space, restaurant, business center, indoor pool and fitness center.

Thomas Slack, a certified real estate appraiser, testified that the hotel was required to make $6M in improvements between 2008-2014 in a prior agreement with the City of Kansas City. He did note in his testimony he didn't have records for the $6M in expenditures for construction or improvements.

Court documents show that Grady Hotel Investments agreed with the City of Kansas City to expend $3,781,000 on real property and cost incurred in 2015-16 was $1.2 M.

"It is extremely important to be fair and reasonable with everyone in Platte County and we're convinced we did so in this case," Platte County Assessor David Cox said in a press release.

The initial hearing took place on Sept. 18, 2017. Platte County residents Stephen Magers and Ferdinand Niemann represented the assessor's office.

KANSAS - Big box stores' tax fight reveals strange logic in Johnson County appraisals

Johnson County officials are justifiably frightened to death there is a plague descending on the county, and probably on all of Kansas as well. Its impact could be devastating, they say. And they don't know how to stop it.

The problem is complicated. Suddenly, out of the blue, the county's appraised values of its seven Target stores were overturned by the Kansas Board of Tax Appeals. Also within the past few days, two drugstore chains located in Johnson County — CVS and Walgreens — received hefty reductions.

County officials have run the numbers of their worst-case scenario if this plague continues. Approximately $100 million in property tax revenue generated by these large retailers and other businesses would be slashed. Half of that lost revenue would directly impact Johnson County public schools.

Longtime appraisers say the new method of appraising these stores is total nonsense. But, so far, the newly adjusted appraisals, based on radically different appraisal methods, have resulted in a 30 percent reduction in property values. And that means a reduction in the property taxes those Johnson County stores pay.

Surely, other Johnson County businesses will line up for the same discounts. Why wouldn't they? It's a gravy train. Businesses throughout Kansas will also jump on, given the Johnson County precedent.

County officials are rightly panicky. They expect this appraisal trend could infect the entire local commercial appraisal system, thereby discounting the property taxes of most of the local commercial buildings.

That would shift that tax burden to —guess who — homeowners, of course.

The newly-hatched theories presented by the appraisers hired by these large retailers are not often found in textbooks. They are not accepted theories within the appraisal industry. I would call them "let's pretend" theories.

The arguments supporting them ask for a belief in fantasy assumptions. The appraiser hired by Target convinced the Kansas tax board that a brand-new method — the "hypothetical leased fee theory" — should be accepted as the valid way to appraise a

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store. That theory suggests that, rather than appraising as if Target were a thriving store, the appraiser should assume that Target has closed, and something like a thrift store has taken its place. With that thrift store's much smaller revenue, the value of the building would go down substantially.

That argument, believe it or not, recently won at the Board of Tax Appeals.

Or how about the "dark store theory," which calls for a different assumption? Assume the Target building is totally vacant for an extended period of time. That would make the facility worth much less. Businesses in other states are pushing that theory hard, and it is being watched closely here as the next possible shoe to drop.

Appraisers in Johnson County who have spent decades appraising based on what is called the "highest and best use" of a commercial building now find themselves in never-never land. Market values don't seem to apply anymore. What does apply is whatever theory some privately hired appraiser sells successfully to the tax appeals board.

Why would the three expert members of the board accept these ridiculous theories? My guess is these three — James (Jay) Cooper, Ronald C. Mason and Devin D. Sprecker, all appointed by former Kansas Gov. Sam Brownback — have an extreme bias in favor of giving tax breaks to businesses. So they approve silly arguments, no matter what, in order to lower the values of these commercial buildings, and thus reduce the property tax load.

I can't prove that any more than these absurd discounted appraised values can be proven. It's just my theory.

Some conservative Kansas legislators are seeking to make these wild theories actual law. What Johnson County leaders can do is try to stop such legislation and also appeal to a higher court. And county officials say they will try both.

One would think logic and rational thinking would prevail over these crazy theories. But in this hyper-political world today, you never know what will win the day. It is very appropriate to be very afraid.

ILLINOIS - That trophy tower isn't worth what you think it is. Or so says the assessor.

Prices of trophy buildings in Chicago have soared the last five years, but the properties are still a bargain—if you believe the Cook County assessor.

Aon Center, the 83-story office tower overlooking Millennium Park, sold for $712 million in 2015. It's worth half that, $356.4 million, according to the assessor. That same year, a retail building on North Michigan Avenue, including the home of a Nike flagship store, traded for $295 million. The assessor values the properties at $56.8 million.

Then there's the city's tallest skyscraper, the 110-story Willis Tower. It fetched $1.05 billion in 2015, a record for Chicago. But the assessor says it's worth just $580 million.

The pattern holds for a sampling of 50 of Cook County's most expensive buildings, from Water Tower Place on the Magnificent Mile to the home of Google's Midwest headquarters in the trendy Fulton Market District. A Crain's analysis found that the assessor valued every single property well below what it sold for within the past five years. By the assessor's estimates, the average building was worth about 46 percent of its sale price, according to the analysis.

The data raise new questions about the accuracy and fairness of Cook County's assessment process, which determines how the property tax burden is distributed among the county's residents, commercial landlords and businesses. And it provides more fodder for critics who say the assessment process is broken and corrupt, their main argument to push Assessor Joseph Berrios out of office in the March 20 primary election.

"I think the average person should be concerned" about the Crain's analysis, says consultant Richard Almy, former executive director at the International Association of Assessing Officers, a trade group.

The data shine a light on a very narrow slice of the Chicago real estate market, but an important one because it represents so much in property value. And it matters to Cook County homeowners because they wind up shouldering more of the real estate tax burden if big commercial buildings are undervalued relative to residential properties.

A series last year by Chicago Tribune and ProPublica found that the county assessment process favors wealthy homeowners and landlords over residential and commercial property owners in low-income neighborhoods. And a recent study commissioned by Cook County similarly concluded that poor homeowners bear too much of the tax burden. The reports have given ammunition to critics who contend Berrios is too cozy with property tax appeals lawyers—including Illinois House Speaker Michael Madigan's firm—who have donated to his campaign and who get paid by big landlords to challenge his assessments.

Crain's analysis examines the 50 biggest property sales in the county over the past five years and compares the sales prices with the values of the same properties as estimated by the assessor's office. The gap is stark: The prices of all 50 properties add up to $17.1 billion, while the assessor values them at only $7.8 billion. The difference—about $9.2 billion—equals the value of nearly 40,000 median-priced homes in the Chicago area.

To most investment professionals, including the ones entrusted with billions of dollars to buy trophy buildings, a sale price reflects what a property is worth because it represents the collective wisdom of the market: what a pool of buyers and sellers says it's worth. Investors place risky bets that properties will increase in value, and sometimes overpay, but that's true for just about any asset that's bought and sold.

Still, Tom Shaer, a spokesman for Berrios, says the Crain's study is flawed and based on "a bad premise" because it looks only at sales prices.

Valuation professionals like appraisers, who are hired by investors and lenders to figure out how much a commercial property is worth, employ three primary methods to do their job. They calculate a building's replacement cost, or what a property owner would have to pay to build a replica of the structure. They also examine sales of comparable properties, adjusting for differences among them and extrapolating a value from there.

Finally, they use income data from a property and apply a rate of return—typically a "capitalization rate," in industry parlance—to estimate a value. So if a property generates $5 million in annual net operating income and the accepted capitalization rate is 5 percent, then the property is worth $100 million.

The assessor's office relies heavily on the income approach for commercial properties, the main reason its values are so much lower than the recent prices for the 50 trophy properties examined by Crain's, Shaer says.

The assessor places less of an emphasis on sales prices because they often represent a buyer's expectations about the property's future income and value, he says. Prices may also include non-real estate assets, he says.

"Sales prices don't indicate current value," Shaer says. "We can't speculate on the future."

That logic doesn't make sense to Christopher Berry, a professor at the University of Chicago's Harris School of Public Policy. Speculation is why most investors buy property in the first place; you can't just ignore it during the valuation process, he says. "That is the most nonsensical argument," Berry says.

Shaer also contends that the assessor's hands are tied by the courts. Resetting values at a recent sale price, a practice known as "sales chasing," runs afoul of state and federal constitutions, he says, citing a string of court cases going back to 1861. The courts favor the income approach that the assessor uses, he says, noting that Berrios and his predecessors have used the method for three decades.

Still, that doesn't sufficiently explain the huge gap between the price of the 50 properties and their estimated value, says Peter Davis, a property valuation official at the Kansas Department of Revenue. Using a property's income to estimate its value may not produce the exact same figure, but it should be within a reasonable range of the sale price, he says.

"There's no reason that the income approach should be 20 to 30 percent lower," Davis says. "Their arguments just don't make sense."

Every building examined by Crain's was valued more than 20 percent below than its recent sale price. The closest the assessor came to the sale price was with the office tower at 311 S. Wacker Drive, which sold for $302.4 million in 2014. The assessor's value: $235.7 million, or 22 percent less.

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Underassessment is a problem with commercial properties all over the country, not just in Cook County, says Tim Wilmath, chief appraiser in the Palm Beach County (Fla.) Property Appraiser's Office. One reason: Big commercial landlords can afford to hire the most expensive attorneys to get their assessments lowered.

Aiming to pre-empt an appeal, some assessors will value big properties conservatively, Wilmath says. "You get beat up enough and after a while, you reduce your assessments to fend off future appeals," he says.

Property tax appeals lawyers are a busy bunch in Cook County, especially at the high end of the market. They will regularly contend that a property is worth a fraction of its recent sale price. A group that paid $652 million in 2010 for the office tower at 300 N. LaSalle St. produced an appraisal for the assessor in 2014 that valued the property at $380 million.

That same year, the high-rise sold again for $850 million—the second-biggest deal in Cook County over the past five years. But it's worth just $392.3 million, according to the assessor.

Property tax lawyers "come up with very creative ways" to value properties, says Wilmath. "There's an old saying in the appraisal world," he says. " 'Torture the data until it confesses the value that you want.' "

ILLINOIS - Assessor's Office Officials in Hot Seat Over 'Regressive' System

A report released two weeks ago independently confirmed what some investigative journalists reported last year: that Cook County's property tax assessment system is stacked against lower-income households.

On Thursday, it was standing room only at a hearing on that report held by the Cook County Board Finance Committee. Commissioners grilled the top deputy in the assessor's office on how it's addressing the enormous disparity in the county's assessments, and how soon taxpayers will be seeing a more equitable system.

Neither Cook County Board President Toni Preckwinkle, who commissioned the report, nor Cook County Assessor Joseph Berrios were at the hearing. Instead, representatives from their offices were there and it was Thomas Jaconetty, an attorney with the assessor's office, who came under the most questioning.

The study, conducted by Virginia-based Civic Consulting Alliance or CCA, concluded that the Cook County valuation process was what they termed a "wealth transfer from owners of lower-value homes to those of higher-value homes."

First and foremost on commissioner's minds, and that of most everyone in attendance Thursday, was how – and how quickly – the assessment system can be fixed to become more equitable.

"We have the opportunity now after two years of working with (Tyler Technologies) and the county and one year of working with CCA to introduce various innovations immediately in this assessment cycle," Jaconetty said. "With respect to CCA, we welcome their assistance. They have been given unprecedented access to our office, to the data, to the processes, to the employees … We have the shared goal of having a better, fairer, more equitable, less regressive, less variable assessment system."

Whether or not Cook County taxpayers will be seeing more equitable tax bills soon depends on how you define "soon." After 40 years of what everyone now agrees is a broken system, the assessor's office says reforms can be implemented during the valuations that take place over the next three years. And as it stands, it appears the communities on the city's South and West Sides, as well as the south suburbs, will be getting updated valuations later in the three-year Cook County cycle.

"Quite frankly, people have been in office for 7 ½ years, and had an opportunity to fix it, have not fixed it but have cost taxpayers more money in this process," said Commissioner Richard Boykin, who represents some of those West Side communities and once threatened to challenge Preckwinkle. "I don't even know if (this hearing) is going to get us to an answer or solution. I think this is just a Band-Aid to get through the election."

"We've seen how far away we are from being equal," said Commissioner Bridget Gainer, "and we've been given a road map to move forward. So I think now it's a whole different story because this isn't about, 'I don't want to pay my property taxes' or 'My property taxes are too high.' Now we know the system is broken and we have the tools to go forward."

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Fritz Kaegi, a strong challenger to the embattled Assessor Berrios, took the opportunity to have his say before the hearing, blasting one aspect of the CCA report.

"It did not even look at commercial assessments," Kaegi said, "and this is one of the most outrageous aspects of our system today."

In a response the assessor's office said in a statement:

"Commercial buildings exist to generate income. So, unlike the valuation of houses, Illinois uses an income-approach-to-value for income-generating or commercial buildings.

"The Assessor's Office is prevented by law from assessing income-generating property based on its sale price."

The primary election is less than three weeks away and the assessor's race will be one to keep an eye on.

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