New York City Property Taxes

An Unbalanced Burden

Assemblymember Dan Quart

1 HISTORY

Until 1975, property assessment in New York City was subject to the discretion of local property assessors who used a process known as "fractional assessment."[1] *Hellerstein v. Assessor of Islip* (1975) changed this, declaring fractional assessment a violation of Section 306 of the Real Property Tax Law.[2] In 1981, the State Legislature passed S7000A/A9200, a bill which reformed property taxation in New York City and Nassau County. This bill created the class share scheme, which divides all property into four classes and assigns each class a percentage of the property tax burden, intending to maintain those proportions at 1981 levels in perpetuity. The legislation also enshrined new assessment procedures that varied based on property class.

Since 1981, the only major change to New York City's property tax system has been the introduction of the Cooperative and Condominium Property Tax Abatement. This abatement addresses one of the inherent inequalities that the system presents; condominiums and cooperative apartments in Class 2 are assessed differently from the 1-3 family homes in Class 1, resulting in higher tax burdens for Class 2 homeowners. This abatement was first passed in 1996 as a stopgap measure until the City administration could create and present the State Legislature with a long term plan for solving the inequities in the system. In the intervening 17 years, the Legislature has extended this abatement five times and has repeatedly tasked the Mayor's office with devising a permanent solution to the problem, but no mayor has done so.

2 ASSESSMENT PROCESS

Three major factors form the foundation of the assessment process in New York City: the class system, class shares, and the assessment procedures themselves.

2.1 CLASS SYSTEM

For property tax purposes, New York City's taxable property is divided into four categories:

Class 1: Most residential property of up to three units and most condominium buildings of not more than three stories, including single family homes

[1] Fractional assessment is defined by Nassau County as "[a] procedure whereby assessments are made at some uniform percentage of full or fair market value rather than at 100% thereof."

[2] *Hellerstein v. Assessor of Town of Islip.* 37NY2d 1 Court of Appeals of New York, June 5, 1975.

Class 2: All other residential property, including larger condominium buildings, cooperative apartment buildings and rental buildings

Class 3: Most utility property

Class 4: Commercial and industrial properties not included in the other classes, including office buildings[3]

2.2 Class Shares

Each of these classes is required by statute to contribute a certain percentage of the total property tax burden, regardless of the proportion of total market value each class holds. In 2013, the class shares and market values of each class were:

Class 1 (single family homes and other small residential properties): 15% class share, 47.77% of market value

Class 2 (larger residential properties, including rental properties): 37% class share, 23.3% of market value

Class 3 (utility properties): 7% class share, 3.11% of market value

Class 4 (commercial and industrial properties): 41% class share, 25.82% of market value[4]

The class shares can be changed by a few percentage points each year. However, the New York City Council has held the proportions nearly stable for residential properties, preserving essentially the same class shares since 1981.[5] Under this system, Class 2 and Class 4 property owners are responsible for 78% of the total property tax burden, despite only representing 59.12% of all property.

2.3 Assessment Procedures

New York City requires property classes to be assessed differently. Residential properties in Class 1 are assessed based on a traditional market value. Comparable properties are chosen from the pool of properties that have been sold in the previous three years based on a variety of factors, including age, square footage, location, and building condition. A market value is calculated based on the most recent sales prices for those properties, which is then multiplied by the Class 1 assessment ratio (6%) to determine the assessed value.

State law requires that Class 2 properties be assessed based on their potential to generate income. Rental properties are required to submit a statement of income and expenses. A capitalization rate, intended to represent the return on investment an investor who purchased the property would expect,

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[3] New York City Department of Finance. *New York City Residential Property Taxes Class Two Guide.* New York City: New York City Department of Finance, 2013.

[4] New York City Department of Finance, 2013

[5] New York City Independent Budget Office. *Twenty-Five Years After S7000A: How Property Tax Burdens Have Shifted in New York City.* New York City: New York City Independent Budget Office, 2006.

is applied to the estimated net income. That product is multiplied by an assessment ratio (45%) to arrive at an assessed value.

All other Class 2 properties (i.e., co-op and condo buildings) are compared to residential rental properties, which include rent-stabilized income-generating properties, to arrive at their market value. Like Class 1, Class 2 comparables are chosen based on a variety of factors, including age, square footage, location and building condition and the assessed value is imputed from the assessed values of the comparable properties.[6]

3 EFFECTS

Individual taxpayers suffer a variety of ill effects from our poorly-designed property tax system. Under the current system, Class 1 and Class 2 properties are treated very differently during the assessment process, resulting in very different tax burdens. Adding to that, the class share system ensures that, as a group, Class 1 properties are paying considerably less than their fair share of the total property tax burden . In fact, Class 2 properties pay effective tax rates that are five times the effective tax rates for Class 1.[7]

There are also disparities within Class 2. Many high-value properties in Class 2 are under-assessed, because the City's property assessors use rent-stabilized buildings for assessment purposes, artificially decreasing the assessments of high-value properties. Remaining Class 2 properties, including the majority of rental buildings in the city, are overtaxed in order to meet the Class 2 tax burden assigned by the class share system. The renters in these buildings are, in the aggregate, lower-income than the owners of co-op and condo units, but the property tax burden their landlords shoulder are internalized in their rents. This is a regressive system that disproportionately burdens those with the fewest resources.

There are also racial disparities in the incidence of property taxes. According to the New York City Department of Housing Preservation and Development's 2008 study, New Yorkers of color are disproportionately renters, not homeowners. The overall homeownership rate in New York City is 32.9%, but disaggregating that data by race demonstrates that there are systemic racial differences in homeownership. [8]

[6] Been, Vicki, et al. *State of New York City's Housing and Neigborhoods 2011.* New York: Furman Center for Real Estate and Urban Policy, New York University, 2011.

[7] Been, et al., 2011

[8] Lee, Dr. Moon Wha. *Housing New York City 2008.* New York: New York City Department of Housing Preservation and Development, 2008.

Race	Population proportion	Homeownership rate
White	35.9%	42.7%
Black	23.3%	27.1%
Puerto Rican	9.3%	15.5%
Hispanic	18.5%	17.9%
Asian	12%	39.5%

Table data from HPD's 2008 study, *Housing New York City 2008*

Compared to all other states, New York State is last when it comes to home ownership ratio by race; statewide, only 28.5% of New Yorkers of color own their home. Comparatively, 66.2% of white New Yorkers are homeowners.[9] Overrepresentation of people of color within the overtaxed renter population necessarily leads to a property tax burden borne disproportionately by New Yorkers of color.

The current system is inflexible and unable to respond to changes in the makeup of property in the city. It is statutorily impossible to update the class share system to represent each class' share of the total market value. However, even if legislation were passed to do that, any class share system leaves the city unable to adjust tax rates to account for economic realities. For example, widespread changes to property values in the aftermath of Hurricane Sandy, especially Class 1 single family homes, cannot be addressed by simply accounting for the total change in the market value of Class 1 properties. The class share system means that the city is required to either continue charging the owners of devastated properties too-high taxes, or it can adjust those assessments, shifting the tax burden onto other Class 1 homeowners whose property values have stayed more or less flat. The majority of the destruction wreaked by Sandy occurred in communities of single family homes in low-lying coastal areas, communities which will continue to be geographically vulnerable, making this an ongoing problem for single family homeowners.

In order to compensate for some of the unfairness in the system, a byzantine system of tax exemptions, tax deductions and tax abatements has evolved, including the aforementioned condominium and cooperative apartment abatement, as well as exemptions for senior citizens, developers who provide affordable housing and homeowners who do not have school-age children. Exemptions are awarded based on ability to organize and lobby the state legislature, not because they are sound tax policy. A well-planned property tax system would not only be better policy, it would be simpler and easier for taxpayers to understand.

[9] Corporation for Enterprise Development. "Assets & Opportunity Scorecard: Homeownership by Race." *Corporation for Enterprise Development.* n.d., http://scorecard.assetsandopportunity.org/2013/measure/homeownership-by-race (accessed July 11, 2013).

Finally, renters, the worst-off in our current system, overwhelmingly do not even realize that they are a part of the system. While renters do not directly pay property taxes, the incidence of the tax likely falls primarily on the renter, not the landlord. However, because their involvement in the system is so opaque, renters have historically not considered themselves as stakeholders in the property tax system and have not been able to effectively advocate for themselves, even though New York City has the second highest tax rates on large apartment buildings in the 50 largest US cities.[10]

4 CONCLUSIONS

Property assessment is dependent on finding comparable properties to determine a market value. If those properties are not truly comparable, the valuation will be inaccurate and the ultimate tax bill will be unfair. While taxpayers are currently able to avail themselves of a challenge process, they cannot easily access the data used to derive their assessed value, making it difficult for a taxpayer to know that their assessment is fair. Increasing transparency will allow taxpayers to more accurately challenge incorrect assessments.

Our current system distributes a disproportionate tax burden onto those who live vertically, i.e., renters and owners of apartments , in favor of those who live in 1-3 family homes. In a city that struggles to provide enough affordable housing, this policy disincentivizes the construction of the denser, more efficient units that are critically important to preserve affordability.

New York City's stock of affordable housing is sorely lacking, in part, because a variety of policies make it very difficult to create new affordable rental units. As the tax burden continues to rise on property owners, it is also challenging to maintain the affordability of current units. Property tax policy can be an important tool to increase the housing we need the most of: affordable rental units in desirable neighborhoods.

[10] Been, et al. 2011, 4.

5 REFERENCES

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