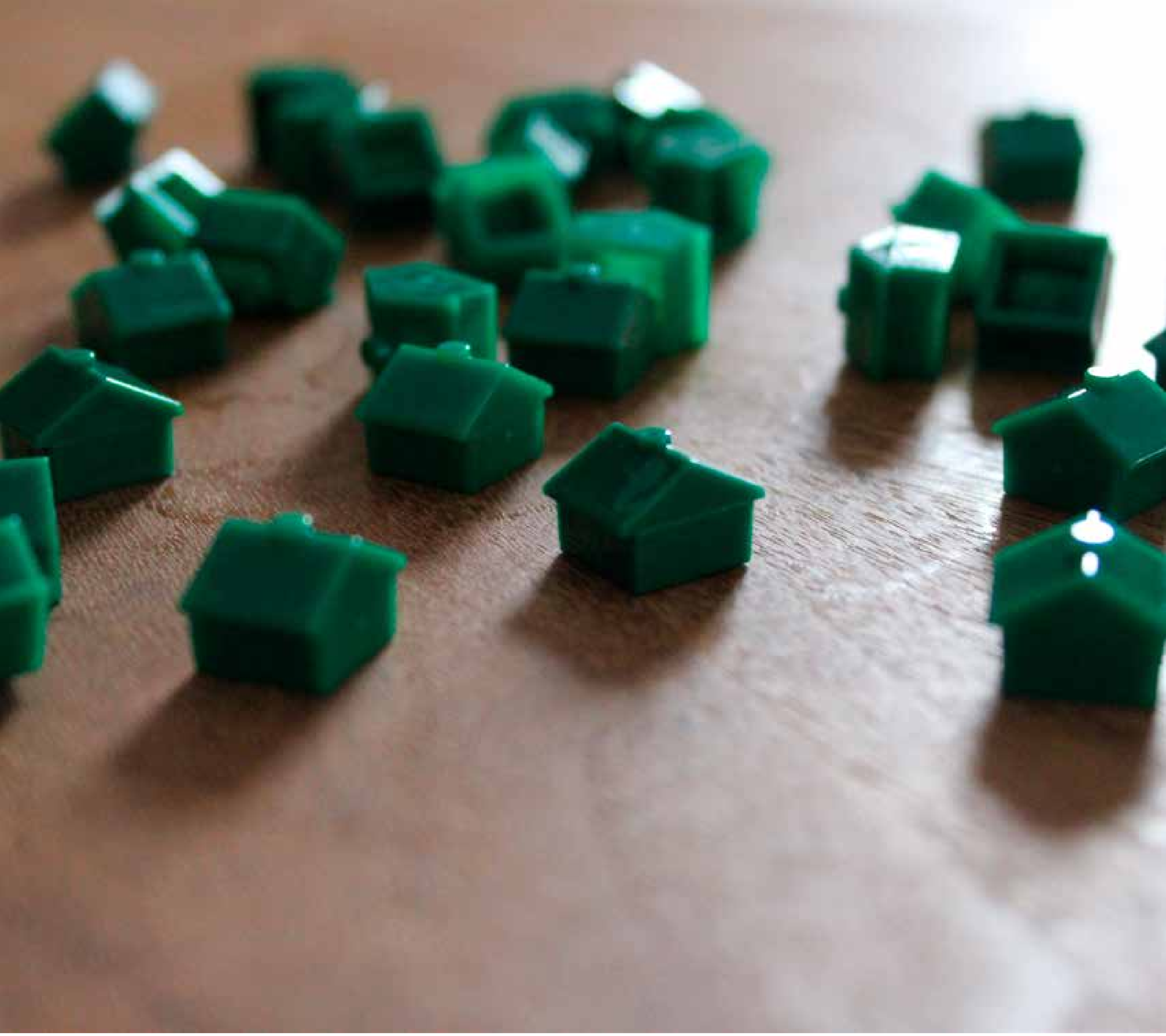

ADDING TO THE LOAD:
HOW BUILT-IN BIASES IN ASSESSMENT MAKE THE PROPERTY TAX EVEN MORE REGRESSIVE IN ULSTER COUNTY

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THE BENJAMIN CENTER
SUNY NEW PALTZ
FOR PUBLIC POLICY INITIATIVES

COVER PHOTO: C. Cody

A massive nationwide study found that real estate assessments systematically result in heavier property tax burdens for less valuable homes; this local analysis is a first step to test these findings from evidence gathered right here in our own backyard.

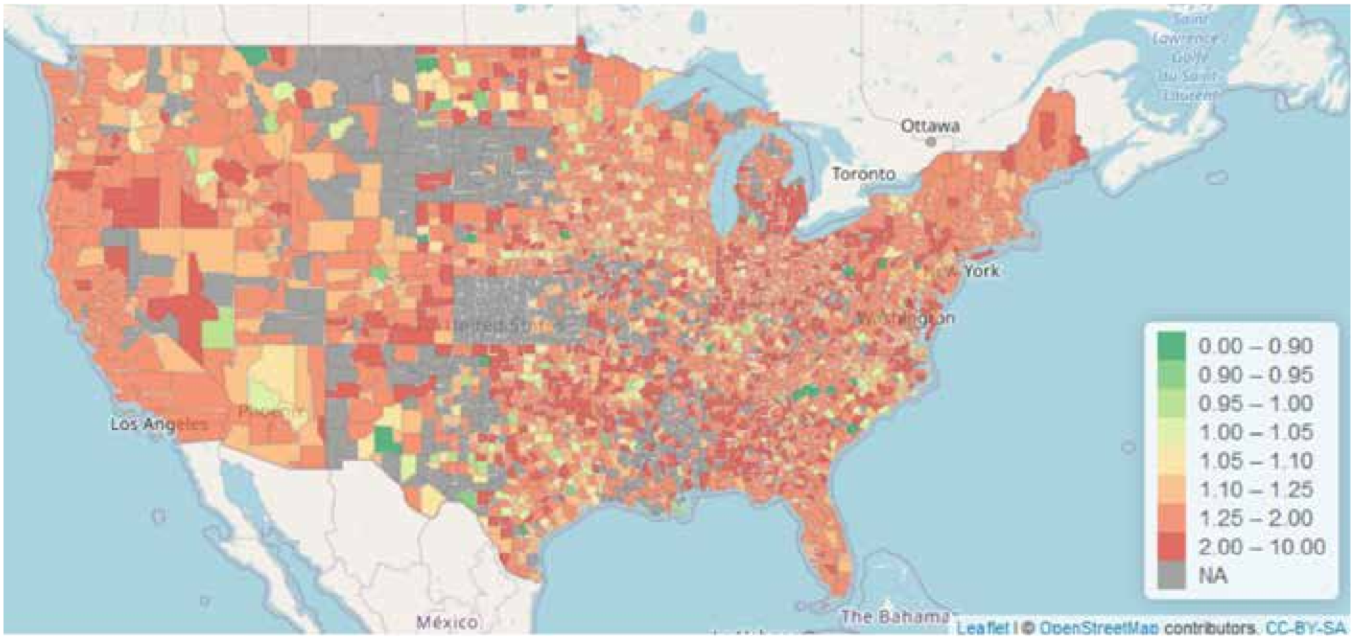
More than two-thirds of the homes in Ulster County are owner-occupied. If you own one of these homes, the day you closed the deal to buy it was the only snapshot in time you knew for sure what it was worth. The market told you. At the closing, with all those papers and checks flying around, a willing buyer (you) paid a specific sum for a property to a willing seller. This value then became the basis for the calculation of what property taxes you paid that year, and—*after adjustment*, annually thereafter—to a dizzying array of local governments: counties, cities, towns, villages, school districts, fire districts and perhaps more.

Suffice it to say, the way that this adjusted valuation—that partly determines tax bills—is regularly calculated is a mystery to most of us.

Fair real property assessment for tax purposes is a national issue. A recent massive University of Chicago study of assessment practices across the nation, based upon a sample of 26 million residential sales from 2006 to 2017, showed that relatively expensive homes were generally assessed for less than their market value while relatively inexpensive homes were usually over-valued by assessors (University of Chicago, 2021). Nationally, "the most expensive homes had an effective tax rate of 1.99% of their value and the least expensive homes had an effective tax rate of 3.73%, which is 1.88 times the rate applied to the most expensive homes" (Berry, nd, 5). Homes in the lowest decile of property values in a given county, on average, were taxed at an effective rate twice as high as the rate for homes in the top decile of property values. In other words, assessment practices create a pronounced regressive effect in the distribution of the property tax burden. **This entrenched, system-level unfairness hands the owners of the highest valued properties a tax break, while those with less valued properties get a proportionally higher tax bill, and therefore pay more than their fair share for schools, roads, public safety, and other vital local public services.**

The less bad news is that the University of Chicago study also showed that assessment patterns were not as severely regressive in New York State as elsewhere, and that, within the state, Ulster County's assessments ranked among the least unfair (12th least regressive in 2015): "[t]he most expensive homes in Ulster County were assessed at 76.7% of their value and the least expensive homes were assessed at 89.7%, which is 1.17 times the rate applied to the most expensive homes" (Berry, nd, 3). Nonetheless, the county's resultant disproportionate allocation of the property tax burden remains substantial and consequential *(Chart 1)*, and the lower the decile of value that the house is in, the higher the likelihood of tax regressivity.

Map 1. Nationwide, Average Assessment Regressivity by County



Source: University of Chicago Property Tax Fairness Project; National Profile of Assessment Regressivity, 2020

A *New York Times* editorial, "How Lower-Income Americans Get Cheated On Property Taxes," primarily attributed these assessment disparities to "maladministration" (3 Apr. 2021, 6). This is too condemnatory of assessors as individual actors. Rather, estimates of value are affected by a multiplicity of factors, some structural, others unique to particular properties, and still others less measurable and/or legitimate (e.g., political influence, bias against newcomers). It is also not in accord with the view of the Chicago study's lead author, Christopher Berry, who wrote:

> "Regressivity results in large part from data and modeling limitations in assessment. In particular, important features of a home are often observable to buyers and sellers but unobservable to the assessor. Homes that sell for more than would be predicted based on their observable features will be under-assessed, on average, while homes that sell for less than would be predicted based on observable features will be over assessed (Berry, 2021, 2)."

The data used in the Chicago study, the most recent of which is more than five years old, is aggregated at the county level. Real property assessment in New York State is rarely a county responsibility; it is largely a town or city function. Therefore, to test the national study's findings locally, we decided to collect and examine more recent assessment outcomes compared to sales prices for three of Ulster County's most populous towns: **New Paltz, Saugerties and Wawarsing**. Ulster County is about the size of the state of Rhode Island in land area; the towns selected for this analysis are geographically dispersed within the county and contain just over a quarter of its population. Also, because they include villages, New Paltz, Saugerties and Wawarsing have a greater proportion of older homes and therefore are more likely to reflect a greater diversity in home values. In this initial exploratory study, conducted at the level of government at which assessment actually occurs, we sought a more detailed picture of how the nationwide regressive effect of assessment practices plays out here in Ulster County.

PROPERTY ASSESSMENT: VALUE, REVALUATION AND EQUALIZATION

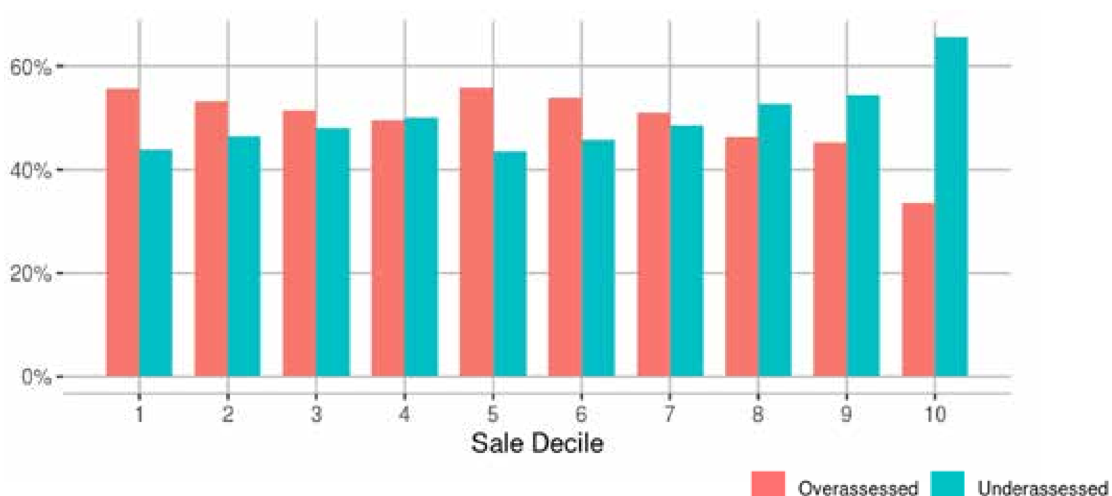
Consider, first, the math behind all property taxes, which can be reduced to a simple formula: *Rate x Base = Tax*. "Tax" is the amount of revenue a local jurisdiction determines that it needs from property owners for the budget year. "Base" is the total aggregate value of taxable property in the community. "Rate," set by the governing board, is the multiplier it specifies to produce the needed revenue from that base. All these elements are dynamic; they are subject to a broad array of factors arising from economic change and conditions, housing inventory and costs, levels of state and federal aid, and public policy choices at all levels.

Annual adjustment of the value of each taxpayer's share of the property tax base is needed because the values of properties in the market are constantly changing, while even in a "hot" market only a small fraction of them are sold every year. Some homes are maintained well; others are not. Modifications are made over time as household needs change or reflect new priorities. Maybe a bathroom is added, or a deck or screened-in porch, updates that make the house worth more. Also, over time growth or decline in the local economy affects the price of housing, as do construction costs and changes in the value of money.

Taxing jurisdictions need to best know all taxable properties' *current* value so that the tax burden is fairly distributed across all properties. If the regular valuation of all properties is neglected, properties of equal market value are likely to have different assessed values, with those recently sold valued more highly than those that have been off the market for a long time. As a result, long-time residents systematically and unfairly tend to have comparatively lower tax burdens than newcomers.

Sometimes, a locality will undertake a revaluation to create a baseline for restoring equity in the tax rolls. This involves the reconsideration of the value of each property in the jurisdiction within a constrained period. Revaluation seeks to assure that changes in valuation for all properties for some time into the future are made from a shared base market period. But the process is politically fraught. A rule of thumb is that revaluation results in increased assessments for one third of properties, reductions for one third, and no change for one third. Significantly, those potentially negatively impacted are least likely to be among a community's most vocal and influential residents (e.g., McCabe, 2014).

Chart 1. Ulster County Percent of Property Over/Under Assessed (2015)



Source: University of Chicago Property Tax Fairness Project; Berry, 2021

Unlike many states, which require properties to be assessed for tax purposes at an estimate of their full (true, market) value, New York has a centuries-long practice of "fractional assessment" (Lincoln Institute of Land Policy, 2018). In 1975, the New York State Court of Appeals ruled 4–3 in the *Hellerstein* decision that fractional assessment actually violated §306 of the Real Property Tax Law (RPTL) as then written, which specified that "All real property in each assessing unit shall be assessed at the full value thereof" (Hellerstein, 1975, 1). The widespread revaluation of properties across the state that would have been required to implement this decision almost certainly would have resulted in a significant shift in property tax liability from businesses and newer residents to long-established homeowners/voters. State legislators feared the political effects of the anticipated massive redistribution of tax burden. The NYS Legislature therefore delayed implementation of the *Hellerstein* decision until 1981 when, over the veto of Governor Carey, it repealed §306 of the RPTL and replaced it with §305.2, currently in effect, which explicitly permits assessment at "a uniform percentage of value" (Department of Taxation and Finance, 13 May 2021, 4).

An assessor employed by the city or town is the local official responsible for estimating the value of each property. (Some villages still do their own assessing. In Nassau and Tioga counties, assessment is done at the county-level. A few communities retain Boards of Assessment. See NYS Department of Taxation and Finance, 5 May 2021.) Though some communities still elect their assessor, most now are appointed officials. All must be certified by the state and are required to take regular training to keep their certification current. The New York State Assessors Association describes the job as "inspect[ing] new construction and major improvements to existing structures to ensure accurate property descriptions and valuations" (1). To do this, assessors visit properties, consider such local records such as building permits, and are trained in systematic estimation of property values.

"THE PRACTICAL EFFECT OF ASSESSMENT PRACTICES IS TO SHIFT THE COST OF GOVERNMENT TO THE LESS AFFLUENT."

Experts favor full value assessment for its face validity; what you see on your bill is what the assessor says your property is worth in the market. However, some taxpayers prefer fractional assessment because it makes their property seem less valuable for tax purposes than they know (or think they know) it is in the market, which they further believe, results in lower taxes. But this is not necessarily the case, so long as the same fractional value is used for every taxable property. It is a simple matter of altering the tax rate, a decision—as noted—made by the governing board. If a jurisdiction assesses at full value, and your house is worth $250,000, a rate of 1% will produce $2,500 in revenue for the taxing jurisdiction. If assessment is at 50% of full value, a rate of 2% would produce the same $2,500.

Assessments in New Paltz in 2020 were determined by the state Board of Real Property Tax Services to be at 90% of full value. In Saugerties it was 95% and in Wawarsing, 94%. Thus, the state-specified equalization rates for these towns were .90, .95 and .94 respectively (Ulster County Department of Finance et al, 2021). The law requires that this rate be reviewed (and if needed, adjusted) annually. As a result of rapidly changing market conditions, though most assessments remained unchanged, the percentages they constituted of full value for New Paltz and Wawarsing were recently adjusted downward to 86% and 91% by the state board.

For example, one recently sold house in New Paltz had an assessed value of $289,000. When assessments there were determined by the state to reflect 90% of the true

Table 1. New Paltz Central School District, Town-level Effect of Equalization Rates, Example: $250K Full Market Value Homes

	Equalization Rate (2020)	Full Market Value (2021)	Equalized 1% of Full Market Value	Assessed Value (2021)	1% of Assessed Value without Equalization
Rochester	1.0	$250,000	$2,500	$250,000	$2,500
Rosendale	1.0	$250,000	$2,500	$250,000	$2,500
Lloyd	0.97	$250,000	$2,500	$242,500	$2,425
Gardiner	0.94	$250,000	$2,500	$235,000	$2,350
Esopus	0.91	$250,000	$2,500	$227,500	$2,275
New Paltz	0.90	$250,000	$2,500	$225,000	$2,250
Plattekill	0.885	$250,000	$2,500	$221,250	$2,213

Source: The Benjamin Center
Note: 2020 equalizations rates are used to calculate 2021 full value.

(full, market) value, an equalization rate of .90 was applied, making its estimated full or true market value ten percent higher, or $321,111. When the state recently determined that the assessed values in the town were actually closer to 86% of the market value, a .86 equalization rate was applied, bringing the estimated market value of this house to $336,047. The effect of lowering the equalization rate was, in a stroke, to universally increase estimated full market valuations in the town.

For Saugerties, however, the adjustment of the equalization rate for the current year was up, to 1.0, a seeming anomaly given market conditions. But the real anomaly was the town's .95 equalization rate for the pandemic year. It is the Saugerties assessor's policy to maintain the tax roll at 100% of value. This practice was suspended in 2020, but reinstated in 2021. This required raising virtually all values by 11%. Following this action, the state restored the equalization rate to 1.0 (Orlando, July 2021).

Though assessors are city or town officials, all jurisdictions that levy the property tax rely on their estimates of value. Equalization is needed to assure that taxes are fair when all or parts of several *assessing* jurisdictions, each of which may be using a different fraction of full value in its assessments, are within a single *governing* jurisdiction. This is the case, for example, for counties and school districts because they are comprised of multiple taxing jurisdictions. For example, the New Paltz Central School District includes all of New Paltz and parts of six towns, assessing at six different fractional percentages of full value *(Table 1)*. If school taxes were based upon assessed value, taxpayers with properties that had the same market value would have varied tax burdens. Application of the equalization rate assures that this does not occur.

ASSESSMENT APPEALS

State law provides a process for taxpayers to contest (or "grieve") assessments that they think are erroneous and unfair (Department of Taxation and Finance, 8 September 2021). In some localities, there are law firms whose primary business is challenging property tax assessments on a contingent basis. One resident of New Paltz recently received a letter from Aventine Properties LLC, a firm that describes itself as "Property Tax Grievance Consultants." It said: "Our systems indicate that your property is being taxed at an effective market value of $404,186. Assuming an approximate tax bill of $13,299, you may be paying $1,562 or 12% more in taxes than you should every year. **Reduction of your property tax bills by this amount would increase the value of your home by a staggering $31,240.**"

Consultants commonly retain half of the tax avoided if a grievance is successful. Aventine added: "Our firm works on a contingency fee basis so if your assessment is not reduced it will cost you nothing. Your assessment cannot be increased and the only fee we will earn is 50% of your first year's tax savings (as a one-time fee)."

Christopher Berry notes: "[I]f appeals are disproportionately brought by owners of more valuable properties—who stand to benefit more from a reduction and likely have better access to lawyers—the appeals process may actually generate regressivity by delivering reductions disproportionately to high-priced properties" (Berry, 2021, 19).

The number of assessment appeals in Ulster County for the last ten years for which data is available ranged between a high of 84 in 2010 and a low of 39 in 2014 (Department of Taxation and Finance, 13 September 2021). The total for 2019 was 41. Records tracking grievances and their outcomes by town are not readily available; we are pursuing this information in order to include it in future reports.

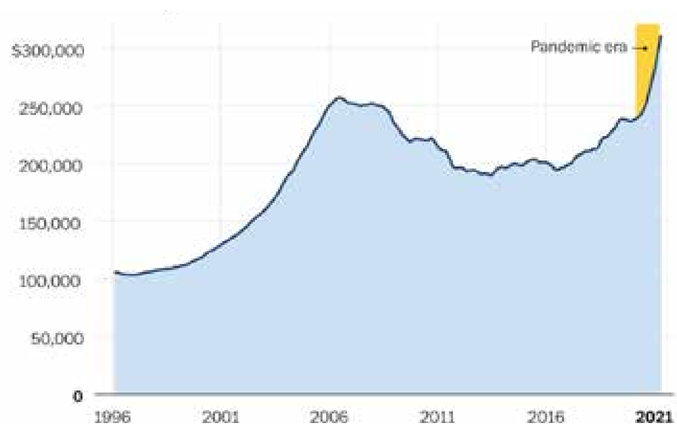
THREE ULSTER COUNTY EXAMPLES: NEW PALTZ, SAUGERTIES AND WAWARSING

The NYS Tax Department cautions that "assessment is not an exact science" (Department of Taxation and Finance, 9 September 2021). Mindful of this, we are not looking here at whether the town assessor's office is good at "predicting" actual sales prices. That is not their job, and would be a grossly unfair standard, especially with real estate values rising very rapidly in the region over the past several years, particularly in Ulster County. *The Washington Post* recently reported that "the average home value in the county rose 30 percent during the pandemic" (Siegel & Van Dam, 2021).

What we measure here is the relative distance of properties with higher and lower sales prices, from their assessments, adjusted to full value. In doing so we can, and do, determine that there is a systematic pattern of under- or over-assessment of properties of different values—whatever its cause—which in turn produces an unfair—and relatively invisible—distribution of the local property tax burden.

Property tax assessments are in the public record (Ulster County, New York, Real Property Tax Service Agency, 2021). For sales data, we obtained detailed information from *Realtor.com* for 240 single family residences sold in New Paltz, Saugerties, and Wawarsing during the first

Chart 2. Ulster County Home Values Over Time



Source: Zillow/Washington Post

Table 2. Profile of Single-Family Homes Sold in New Paltz, Saugerties, and Wawarsing January through April 2021

	New Paltz	Saugerties	Wawarsing
Number of sales	59	136	45
Mean sale price	$386,588	$317,547	$239,541
Median sale price	$359,000	$262,250	$227,500
% distance of assessed value from sale price			
Close (within 15% of sales price)	34% (20)	24% (32)	16% (7)
Over-assessed (exceeded sales prices by more than 15%)	4% (2)	13% (17)	18% (8)
Under-assessed (below sales prices by more than 15%)	63% (37)	64% (87)	67% (30)
Sale price relation to percent difference (R)	0.569	0.464	0. 396
Mean distance between sales price and assessed value	29%	41%	107%
Above the median	32%	52%	96%
Below the median	15%	30%	48%

Source: The Benjamin Center

four months of 2021.[1] The sources for tax rates and state-level evaluations of property tax equity are the New York State Department of Taxation and Finance and the Ulster County Office of Real Property Tax Services (Schmidt & Palladino, 2021).

Our analysis includes 59 sales in New Paltz, 136 in Saugerties, and 45 in Wawarsing (*Table 2*). Using equalized assessed valuations from 2020, we divided single family home sales into three groups. We label assessments within 15% of sales prices as "close"; those where assessments exceeded sales prices by more than 15% as "over-assessed"; and those where assessments were below sales prices by more than 15% as "under-assessed." **We found that about two-thirds of sales in the first four months of 2021 in all three towns were of under-assessed properties.** As noted above, this was expected as it reflects the recent run up of housing prices in the region. There were 20 houses (34%) sold in New Paltz, 32 (24%) in Saugerties and 7 (16%) in Wawarsing with sales price and assessed values within our definition of "close." The fewest properties were in the over-assessed category: 2 (4%) in New Paltz, 17 (13%) in Saugerties and 8 (18%) in Wawarsing.[2]

After rank ordering the prices in the three communities, we calculated the percent distance between the sales price and the assessment and determined the average of these distances in each town. This average was 29% in New Paltz, 41% in Saugerties and 107% in Wawarsing. In all three towns, sales price was positively related to the percent difference; the relationship in New Paltz was particularly strong (Pearson's r = .569). Because two-thirds of houses were under-assessed, the taxpayers who owned these under-assessed homes got a break. Significantly, properties that were more valuable were under-assessed to a greater degree, giving a bigger break to their owners.

In Wawarsing, the distance between the assessment and sales price was 454.3% for one property, 331.5% for another, and for six others it was well over 100%, yielding the very high average for all sales. In Saugerties, over-assessed properties were disproportionately among those with lower values, additionally burdening their owners with property tax liability.[3]

Table 3. Coefficient of Dispersion (COD) for Single-Family Homes Sold in New Paltz, Saugerties, and Wawarsing January through April 2021; Acceptable range: 5.0 to 15.0

	New Paltz	Saugerties	Wawarsing
2020	14.1	N/A	30.5
2021	24.6	60.4	63.8

Source: 2020 source is the NYS Tax Department, 2021 COD was computed by The Benjamin Center

To oversee assessors' work and to approach equity, the state measures the variation in the ratio of assessments to market prices in each assessing jurisdiction around a midpoint for a sample of sales by calculating a statistic called the Coefficient of Dispersion (COD). If the distribution is "tight" around the median ratio, CODs are low. As noted, many factors in a community affect this dispersion, including "the types of property it contains, community size, population density, the degree of diversity of properties, market activity levels, and the relative ages of structures" (Department of Taxation and Finance, 9 September 2021b, 17). According to the NYS Tax Department, the International Association of Assessing Officers (IAAO) regards 5.0 to 15.0 to be the acceptable range for CODs in jurisdictions that have mostly single-family dwellings (Department of Taxation and Finance, 9 September 2021, Table 1). A COD of 14.1—within this range—was reported by the state for residential properties in the Town of New Paltz in 2019. For Wawarsing in that year the COD was 30.52. The state did not report a COD for Saugerties that year. For 2021, we compute much higher CODs than the state reported for 2020 (*Table 3*).

But this ratio does not tell us the value of properties dispersed above and below the mean. To address this, we identified the median sales price for properties in all three towns, then looked at the mean percentage difference between that price and the properties with assessed values in the upper and lower halves of sales price. In all towns, that difference was substantially higher for properties of greater value than for those of lesser value. That is, they were under-assessed to a greater degree. In New Paltz (32%/15%) and Wawarsing (96%/48%), the former was double the latter. In Saugerties (52%/30%) it was higher by more than two fifths (*Table 2*).

How does this translate to dollars paid in taxes? Because higher-value homes are generally assessed at a value more distant from the price they command in the market than are houses of more moderate value, owners of these higher-valued properties avoid a greater portion of their potential tax liability than do their neighbors living in lower-valued houses.

To illustrate this, consider the examples in *Table 4*. House #1 sold for $1.15 million, while it was on the rolls with an assessed value of $335,000 and a full market value of $389,535. Since the assessed value is far below the recent sale price, the difference between its assessed value and its market value saves the new owners $18,958 in taxes. In contrast, house #2, assessed for $175,500 with $204,070 full market value, sold for $215,000. If the new owners were paying taxes on the sales price, their annual taxes would have been higher by $1,070. So, the practical reality is that both are under-assessed, but the million-dollar homeowner avoids taxes on $654,000 of value, thereby paying nearly $20,000 less in property taxes. This compares to the $34,000 of value not taxed—with $1,070 in property taxes avoided—for the homeowner of the less valuable property.

Put differently, the practical effect of assessment practices is to shift the cost of government to the less affluent.

There is an added dynamic to consider. Because almost everyone gets some benefit from under assessment, there is little incentive for anyone to challenge the system. Big benefits may persist for some, therefore, to avoid calling attention to smaller ones for others.

Regressive taxes are called regressive because they burden those with less ability to pay to a greater degree than those who are better off. Another statistic, the

Table 4. Two Select New Paltz Tax Assessment Examples, January to April 2021 Sales

	Tax Rate	House #1	House #2
Sale price		$1,150,000	$215,000
Assessed at 86% of full value		$335,000	$175,500
Full value assessment		$389,535	$204,070
Sale price minus full assessed value		$760,465	$39,500
Untaxed portion when assessed value at 86%		$654,000	$33,970
Under paid taxes			
Town (outside village)	2.041287	$1,335	—
Town (inside village)	0.138972	—	$5
County	4.141626	$2,709	$141
Village	4.91	—	$167
School district	22.30817	$14,590	$758
Fire[4]	0.495935	$324*	—
Total tax impact		-$18,958	-$1,070

Source: The Benjamin Center

Price-Related Differential (PRD), directly measures the degree of progressivity of the property tax in a jurisdiction arising from its assessment practices. The New York State Tax Department reports that in 2020 assessment practices resulted in a regressive distribution of the property tax burden in more than half the assessing jurisdictions. "[T]he IAAO suggests that the PRD [should have] a value between .98 and 1.03 for neutral assessing." The state's most recent review found that New Paltz had a PRD of 1.05 in 2020; Wawarsing's was 1.02 (Department of Taxation and Finance, 9 September 2021, 27). No PRD was reported for Saugerties. Using our 2021 data for the three towns, we produced a PRD of 1.08 for New Paltz, 1.21 for Saugerties and 1.98 for Wawarsing—scores significantly outside the range specified as neutral. That is, one likely consequence of the current real estate boom is the property tax has become, at least for the near and middle term, more regressive than it has been and is a greater relative burden for less affluent homeowners.

Table 5. Price Related Differential (PRD) for Single-Family Homes Sold in New Paltz, Saugerties, and Wawarsing January through April 2021; Acceptable range: .98 to 1.03

	New Paltz	Saugerties	Wawarsing
2020	1.05	N/A	1.02
2021	1.08	1.21	1.98

Source: 2019 source is the NYS State Tax Department. 2021 PRD was computed by The Benjamin Center

WHAT TO DO?

Individual over- or under-assessments may result from error or even intentional bias. These are problems that can be fixed by using existing procedures to challenge and eliminate them, one at a time. But what we see here is a structural effect, and it requires a systematic approach to achieve greater equity. National and state evidence shows that the pattern reaches beyond Ulster County. This brings into question whether assessment processes are truly "uniform" as required by state law.

Further highlighting this pattern in assessors' training and emphasizing approaches to minimizing its impact might help diminish regressivity. But to assure greater fairness the state should require more timely, regular, and consistent revaluation, or consider additional formulaic adjustments of local property assessments under certain specified circumstances to prevent lags in keeping assessment values current.

Further research is needed to fully identify the multiple causes of property tax regressivity in New York State, and which are most significant in specific circumstances and locations. Our initial exploratory review here, a first step, confirms the local presence of built-in bias in the administration of the property tax favoring owners of high-value properties. **The existence of this bias diminishes the legitimacy of this tax in communities heavily dependent upon it, and therefore of local government generally. We need far better understanding of all contributing factors, and a plan to achieve greater tax fairness in the region and across the state.** We will report further as our inquiries proceed.

ENDNOTES

[1] As noted, the New Paltz School District includes all of New Paltz and part of six towns. It is common for realtors to list homes located in the New Paltz School District, but not in the Town of New Paltz, as being "in New Paltz." In these cases, the assessing jurisdiction is the town in which the property is located. Multi-family houses and properties listed by realtors as being in a town but not on the town tax rolls were excluded from this analysis.

[2] There was an assessor's error in the data for one home. It was excluded from the analysis. Newly built homes for which the assessment was based on vacant land were also excluded.

[3] The Wawarsing assessor attributed the large differences between some assessments and sales prices in that town to a number of factors: a very hot real estate market, dominated by out-of-town buyers; the absence of a policy requiring cyclical reassessment of properties, resulting in change in valuation of individual properties only when there are physical improvements; and the effect of the state's required alternative method for the valuation of condominiums, which results in their lower assessments. Telephone conversation with Gerald Benjamin, January 24, 2022.

[4] Villages and cities provide fire protection through a department of the village government, which is therefore paid for through the general jurisdictional levy. Fire protection outside villages or cities is provided through separately organized fire districts or fire protection districts that separately levy for this function. House #1 is in the village and House #2 is not; therefore, a fire tax rate is not available for House #2.

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