The Impacts of the Adoption of the Homestead / Non Homestead Property Tax System in Ossining

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SUNY NEW PALTZ
FOR PUBLIC POLICY INITIATIVES

TOWN OF OSSINING
WESTCHESTER COUNTY, N.Y.

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Major Findings and Recommendations

1. Current State law requires condominiums to be assessed using a method that results in an assessed value well below market value. For example, a single family residence in the Village of Ossining and the Ossining School District with an average tax obligation was valued at $348,000. **Its owners paid a total of $14,681 in 2018 property taxes. In the same year a condominium in that village with an average tax obligation had a market value of $328,000 but an assessed value of $211,000, its owners paid $8,057. That is, the difference in tax obligation of properties of roughly equal value was $6,624 or 45%.** The degree of difference in tax obligation between condominiums and private residences that are not condominiums located outside of the town's villages, in the Village of Briarcliff Manor and in the Briarcliff Manor School District, though not always of the same magnitude, are systematically substantial. Condominium owners pay much less in property taxes for properties of equal value.

2. Under current State law, a jurisdiction may assess its condominiums at market value only if it adopts the Homestead Tax Option. Because Ossining has already implemented full value assessment, the homestead option is not needed in the community for its intended purpose − to ease the potential tax shock for homeowners of the effects of this change advanced by the state to assure property tax equity. **No municipality in New York State has adopted the homestead/non-homestead option a year or more after its initial adoption of a full value reassessment**.

3. **The Homestead option's implementation in all jurisdictions for which the Town of Ossining provides assessment services would decrease the average homeowners' yearly property taxes by between 6 and 9.5 percent, while taxes for condominium owners would jump between 55 to 73 percent** (see Table 1). This would mean an annual increase of between $4,470 and $6,509 on average for condominium owners, and a decrease on average of between $1,390 and $2,701 for other homeowners (see Table 1). Advocates would mitigate the negative impact on condominium owners by seeking special state legislation that would spread the impact out over a period of time; seven years has been mentioned.

4. The town decision to adopt the homestead alternative opens up the option to the two villages and two school districts all or partly in the Town of Ossining but the governing boards of these entities must act independently to adopt it. In interviews for this study, leaders of these four governments expressed no affirmative interest in adopting the homestead option. The potential average redistributive impact of adopting homestead/non-homestead in the Town alone is a $664 (58%) increase in condominium owners' tax liability and a $332 (13%) decrease for other town homeowners (see Table 2).

5. If the homestead option were in place for Ossining in 2018, the homestead tax rates per $1,000 of assessed value for Ossining would be $4.69562 for the town and, if these jurisdictions adopted the

system, $9.80036 for the Village of Ossining, $5.10773 for the Village of Briarcliff, $22.7022 for the Ossining School District and $20.06993 for the Briarcliff School District. Non-homestead rates would be $6.00805 for the town, $10.35190 for the Village of Ossining, $5.18387 for the Village of Briarcliff, $24.21854 for the Ossining School District and $19.17050 for the Briarcliff School District (see Table 2). In addition, the non-homestead to homestead tax ratio for each jurisdiction within the town would range from 0.9554 to 1.126. **This means there would be very little difference between the tax rates of homestead and non-homestead properties**. In fact, in the Briarcliff Manor School District homestead properties would be taxed at a slightly higher rate than non-homestead properties which is contrary to the intent of the homestead option.

6. This small difference in homestead and non-homestead tax rates contrasts with the experience of other jurisdictions in the Hudson Valley that have adopted the homestead option. Commercial properties in each jurisdiction pay at significantly higher rates than do residential properties in all instances. The ratio ranges from 1.38 (Pelham) to 2.38 (Stony Point) for towns, 1.27 (Rye Neck) to 1.96 (Clarkstown) for school districts, and 1.21 (Nyack) to 1.55 (Rye Brook) for villages (see Charts 1, 2, and 3).

7. There are five towns in Westchester and Putnam Counties in addition to Ossining that did revaluations in the previous five years but chose ***not*** to adopt the homestead/non-homestead option: Mamaroneck, Scarsdale, North Salem, Greenburgh, and Carmel. Scarsdale and North Salem have a handful of condominiums and Carmel relatively few; a change to the homestead option in these towns would have had little impact on condominium owners. So, the salient comparisons are with Greenburgh and Mamaroneck.

8. Ossining has 67% of its parcels dedicated to housing, with 18% of these condominiums. Greenburgh has 65% of its parcels devoted to housing, and Mamaroneck 72%; the percentage of their parcels that are condominiums is 17% and 12%, respectively. Both of these towns are more affluent than Ossining. Average family income in Mamaroneck and Greenburgh ($114.5k, $115.2k) in 2016 was higher than in Ossining ($82.4k). (Table 3)

9. Leaders in Greenburgh and Mamaroneck said that one key reason for their decision not to adopt the homestead option was the potential tax shock for condominium owners who had assumed a certain level of taxation when they purchased their properties; that is, fairness.

10. Ossining's non-homestead sector and level of family income is similar to that in four towns with substantial number of condominiums that did adopt homestead/non-homestead, but it has a modestly higher portion of commercial parcels. Reports from these towns on the effect of this choice were not consistent. Officials in Southeast, where it was adopted in 1996, reported homestead/non-homestead was "accepted as fair" by homeowners, condominium owners and businesses in their community despite initial opposition from condominium owners.

11. In Haverstraw and Clarkstown, however, homestead/non-homestead was viewed as having a significant negative effect on the local economy, especially because − local leaders said − these towns near New Jersey and must compete for business locations with municipalities in that state.

12. Taking up an available option under state law, Ossining is among the localities that has recently adopted a local law that bars a dwelling unit that has been on an assessment role in other than condominium form to gain a tax benefit by converting to a condominium. But, though ameliorative state law has been proposed, there is still no local authority to deny or restrict the tax benefit that arises from the required basis for assessment for newly built condominiums.

13. Remedies at the state level are clearly needed. State legislation to allow newly built or converted condominiums to be assessed and taxed based on their market value has been entered in the Assembly and Senate since 2007-2008. This proposed legislation is entirely prospective. It passed the Assembly in 2018 but was not voted on in the Senate.

14. Though options have been discussed, there have been no state approaches to remedy tax inequities currently in place, or to empower localities to do so. Four state policy changes have been suggested:
    i. Require condominiums to be assessed at market value. The resulting tax shock for condominium owners makes this an unrealistic option;
    ii. Require condominiums to be assessed at market value, with a phase-in over time (seven years has been suggested) to mitigate the resulting tax shock. This option would still subject condominium owners to years of increased property taxes;
    iii. Retain the current condominium assessment policy for current owners, but require condominiums to be taxed at market value after they are sold or otherwise transferred to new owners. A variation on this approach would eliminate the tax break after the second sale or transfer.
    iv. Link the continuation of the condominium tax break to income eligibility levels similar to those used for the STAR tax exemption. This would restore the tax break to its original policy objectives of creating affordable housing and middle income home ownership. The tax break for others would be phased out over time.

15. All of these options have significant impacts on condo owners. Option three would have the least impact as it avoids an immediate tax liability impact but devalues condominiums in the real estate market. This is likely the least bad option for long-time condominium owners, as the reduction in value is likely offset by appreciation over time. Option four would affect some condominium owners but not others but its real impact is unknown because the income level of individual condominium owners in Ossining is unknown.

16. The prospect of the adoption of homestead/non-homestead offers the Ossining Town Board a Hobbesian choice: continue an inequitable status quo or achieve equity by imposing immediate tax increases, risking larger additional ones and/or effecting serious immediate and long-term financial costs upon about one quarter of the towns' homeowners. This research does not define a best local alternative; current state policy provides the town no pragmatic method to achieve the desired tax equity. Therefore, it suggests the prudence of forestalling change until state policy revision is achieved that mitigates the negative effects of available alternatives on so many of the town's residents.

The Current Debate in Ossining

In 2016, the Town of Ossining adopted full value assessment, a practice recommended but not required by New York State. The town's last revaluation was done in 1972, more than forty years earlier. "The high cost of grievances, as well as the ever-changing equalization rate," town board members said, "…[caused us to examine]… different ways of accomplishing our goal of ensuring that each resident and commercial property owner only pays their fair and equitable share of property taxes."[1]

In 2017, Ossining had 10,164 parcels in its property tax base. Of these, 8720 (85.8%) are housing units. Of the housing units, 1845 (22.5%) are condominiums. As is the case for most localities in New York State, the Town of Ossining and the villages and school districts all or partly within it have long taxed all the properties in them at a single rate. Because of requirements in state law about how condominiums are assessed, the use of a single rate results in their owners paying property taxes that are substantially lower.

One example from calculations made by the town assessor in 2018 is illustrative. A single family residence in the Village of Ossining and the Ossining School District with an average tax obligation was valued at $348,000. Its owners paid a total of $14,681 in property taxes. In the same year, a condominium in that village with a market value of $328,000 was assessed at $211,000, and its owners paid $8,057. That is, the difference in tax obligation of properties of roughly equal value was $6,624 or 45%. The degree of difference in tax obligation between condominiums and private residences that are not condominiums located outside of the town's villages, in the Village of Briarcliff Manor and in the Briarcliff Manor School District, though not always of the same magnitude, was systematically substantial. Condominium owners paid much less in property taxes for properties of equal value.

A provision of New York Law called "homestead/non-homestead," detailed below, allows condominiums to be assessed at full market value if, after a change to assessment at 100% of value (as was done in Ossining in 2016) the town government decides to adopt a system that taxes residential and commercial properties at different rates. If the town makes such a decision, under some conditions set out in the law that are met in the case of Ossining, school districts and villages ***may*** also do so. Residents of the town who regard the current system as inequitable have pressed for adoption of this alternative system. Condominium owners, who fear a massive tax shift, have opposed the change.

The Ossining Town Board initially decided not to adopt the homestead/non-homestead system but agreed to study the various specific impacts of adopting such a system. The Benjamin Center at SUNY New Paltz was hired by the Town Board to conduct this study and to provide them with evidence-based policy alternatives to address the issue of property taxation equity within the Town.

New York State's Law Governing the Assessment of Condominiums

In 1964, New York State passed its first law authorizing condominium ownership (Chapter 82, Laws of 1964, now Section 339-y of the Real Property Tax Law). This initiative was expected to principally impact New York City, which is unusual in that most of its citizens reside in rental housing. (When this law was passed, multi-family dwellings were also a significant, though far smaller, share of the housing market in suburban

[1] https://westchestertaxrelief.com/blog/

jurisdictions proximate to the city, but not elsewhere in the state.) The law was expected to encourage the conversion of existing rental units, thereby allowing lower- and middle-income residents who became owners to benefit: From both the potential for capital appreciation and from tax deductions linked to ownership theretofore not available to them.

Regarding valuation of condominiums for taxation, the 1964 law provided that: **"Each unit and its common interest . . . shall be deemed to be a parcel and shall be subject to separate assessment. . . . In no event shall the aggregate of the assessment of the units plus their common interests exceed the total valuation of the property were the property assessed as a parcel."**[2] That is, like a single family residence, a condominium was to be separately assessed, but unlike such a residence, not based upon its own market value but in a manner linked to the value of the building it was in.

A review of the official bill jacket for Chapter 83 of the laws of 1964 reveals little discussion about the rationale for Section 339-y. The Division of Budget did observe that "no loss of local tax revenue is anticipated under this bill."[3] In particular, no comments were submitted that expressed any concern about how the enactment of this provision would in the future create a tax equity issue between condominiums and single, two, and three family homes. The drafters of this legislation were primarily concerned with creating greater opportunities for homeownership without reducing the amount of local property tax revenue.

This assessment practice withstood challenge in the courts in the case of *Marks v. Plecher*.[4] In 1981, with a rare override of a veto by Governor Hugh Carey, the state legislature bypassed market value in directly specifying the manner in which condominiums converted from rental apartments were to be assessed. It provided that: **"Real property owned or leased . . . on a condominium basis shall be assessed for purposes of this chapter at a sum not exceeding the assessment which would be placed upon such parcel were the parcel not owned or leased . . . on a condominium basis**."[5]

The persistence of the legislature in assuring that condominium owners would enjoy lower property taxes than would other homeowners as the value of their homes increased, is contrary to the interests of local governments. Growth in the tax base that would result from market-based assessment of condominiums would reduce the need to increase local property taxes community-wide. This point was made to no avail by Governor Hugh Carey in his message accompanying an unsuccessful veto of the 1981 law establishing the homestead/non-homestead option.

Some suggest that this specification in this assessment policy was an attempt to further incentivize condominium conversion and construction, keeping lower-middle and middle class families in New York City.

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[2] NYS Real Property Tax Law §339y

[3] *Budget Report on Bills SP. 2161* 2/25/1964, P2.

[4] 89 Misc. 2d 5 60, 392 N.Y.S.2d 536 (Sup. Ct. 1977), rev'd, 58 A.D.2d 812, 396 N.Y.S.2d 267 (1977), aff'd, 49 N.Y.2d 954, 406 N.E.2d 802, 428 N.Y.S.2d 947 (1980).

[5] This summary based upon: David B. Soleymani. Note: The New York Assessment Anomaly: Valuation Following Condominium Conversion 1987 Reporter 1987 *Colum. Bus. L. Rev.* 733 (1987)

Mark Willis, Executive Director of the Furman Center for Real Estate and Public Policy at New York University, has pointed out that, initially, the condominium conversion law affected a relatively small numbers of units in rent-regulated outer borough New York City apartment buildings. He says that the method of assessing value in these apartments was part of an effort to protect residents of rent stabilized units from eviction.[6] Whatever its original rationale, this choice created a constituency with a stake in the continuation of the practice.

Several amendments have been made to RPTL Section 339-y since its adoption in 1964. The most significant for this report was passed in 1983. It stated that, if an assessing jurisdiction adopts the homestead option, the provision of Section 339-y that resulted in lower assessed value for condominiums no longer applied. This allows assessors to assess condominiums at full market value in "homestead" jurisdictions.[7] The legislation also added an exception for condominiums in municipalities that adopted homestead prior to April 30, 1983. Condominiums in these six places could <u>not</u> be classified as homestead and, consequently, kept their lower assessments.[8]

An examination of the bill jacket for this 1983 law reveals that the Division of Budget and the State Board of Equalization and Assessment both recommended that the Governor veto this bill. In their memos opposing the bill, they reiterated what the Governor stated in his unsuccessful veto of the 1981 law establishing the homestead/non-homestead option that continued the real property tax preference for condominiums:

> This bill would virtually ignore one of the most glaring inequities in our current system, namely the significant preferential valuation treatment accorded to condominiums. This of course translates into substantial savings for the owners of these valuable properties, with a concomitant shift of tax incidence to property owners not similarly favored. The bill would create potentially vast tax liability distinctions between and among similarly situated condominium owners with property located within the same tax district (e.g., school district, county).

In their memos it is clear that both these state agencies preferred a complete elimination of the preferential property tax treatment of condominiums. The assessors for the Town of Evans and the Town of Orchard Park also called for the complete elimination of RPTL section 339-y.The Association of Towns favored passage of this legislation, noting its opposition to the preferential property tax treatment of condominiums but believing that this bill at least gave local governments a method of eliminating this preferential treatment by adopting the homestead/non-homestead option.

Origins in New York State of Classification of Property for Assessment

Real property assessment in New York State is a local function, overseen by elected city, town (and sometimes village) boards. Assessment is performed by credentialed, trained, local appointees. But the people they work for regard their work, and especially the periodic revaluation of the property tax base, as

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[6] Conversation with Gerald Benjamin, September 14, 2018. Another authority, Richard Sweeting of the NYC Independent Budget Office, is skeptical of this view.

[7] Chapter 800 of the laws of 1983, adding paragraph 1.d to §339-y of the Real Property Law

[8] (RPTL 1903(13)(a)). Town of Islip (Suffolk County),Town of East Greenbush (Rensselaer County),Town of Waterford (Saratoga County), Cities of Niagara Falls and North Tonowanda, Town of Niagara (Niagara County), and Town of Orangetown (Rockland County).

fraught with political risk. This is why there are often long time periods between property revaluations in New York localities, which in turn generally results in under-assessment of residential and over-assessment of commercial properties. This outcome was and is justified by the idea that income producing commercial properties are better able to afford to pay the tax. These long time lags between revaluations might also produce less equitable assessments among residential properties, with long-time owners benefiting.

Failure to regularly revalue was often accompanied by assessment at partial value, even though the real property tax law nominally required property to be assessed at its full value. The state courts validated partial value assessment when they held that the term "full value" in the law merely required ". . . that the assessments be at a uniform rate or percentage of full or market value for every type of property in the assessing unit."[9]

The Hellerstein Decision and Legislative Reaction

Then, in 1975, the New York State Court of Appeals ruled in the *Matter of Hellerstein v Assessor of Town of Islip* that fractional assessments violated the long-standing Section 306 of the Real Property Tax Law (RPTL) and that assessors were indeed required to assess all property at full value. That is, full value meant full value. Revaluation and full value assessment to make the property tax more equitable, transparent, and understandable to citizens was professionally regarded as best practice. Yet, such a revaluation was almost certain to result in a "tax shock," shifting a significant portion of property tax liability from businesses and newer residents to long-established homeowner/voters.

State legislators feared the political effects of the anticipated massive redistribution of tax burden that would arise from implementing this court decision; substantially raising some homeowners' taxes, especially in New York City and its suburbs. The Legislature therefore delayed implementation of the *Hellerstein* decision until 1981 when, over the veto of Governor Carey, it enacted Chapter 1057 of the laws of 1981.This law repealed Section 306 of the RPTL and replaced it with a new Section 305, and established Articles 18 and 19 of the RPTL.[10] Through this action, the legislature sought to diminish the burden shift − and attendant tax shock for homeowners – thereby limiting their own political risk (and that of local elected officials). To do so, legal authorization was granted to assessing jurisdictions (mostly cities and towns) to divide their tax bases into two classes – homestead and non-homestead; properties in each of these classes were required to collectively retain responsibility for the share of taxes they paid before the revaluation. Also, under conditions specified in law, if a town adopted the homestead/non-homestead approach, school districts and villages assessed by the town were authorized to do the same.

The 1981 law also repealed the requirement for full value assessment and instead provided that:

- The existing assessing methods in effect in each assessing unit might continue;
- All real property in each assessing unit should be assessed at a uniform percentage of value;

[9] *Matter of Hellerstein v Assessor of Town of Islip*, 37 N.Y.2d 1, (1975) p. 5.

[10] For a more detailed account of the legislative politics see: New York City Independent Budget Office. "Twenty-Five Years After S7000A: How Property Tax Burdens have Shifted in New York City" (December 5, 2006) pp. 8-12. http://www.ibo.nyc.ny.us/iboreports/propertytax120506.pdf (Last visited on 27 July 2014).

- Any assessing unit at full value through a revaluation may adopt a uniform percentage of value as its new standard.

Shares of the Pie

This classification of properties for taxation came to be called a "shares of the pie approach" to tax equity implementation required by *Hellerstein.* "Shares of the pie" kept the total share of the tax levy paid by each class of properties the same as it was in a designated base year. The law provided for assessment on a uniform standard (but, as noted, not necessarily full value), created four classes of property for New York City and Nassau County and mandated their use (Article 18 of the RPTL). It provided the option of a two-class system for upstate jurisdictions (Article 19 of the RPTL).[11] We consider here only that portion of the law that applied to the Hudson Valley and upstate jurisdictions.

Under Article 19 of the RPTL, after an upstate municipality reassessed its property at a hundred percent of value to achieve greater equity and became an "approved assessing unit," it could elect to fix the proportion of the real property tax paid by properties in a "homestead" class and "non-homestead" class to that in the year before the reassessment.[12] That is, if non-homestead properties in aggregate paid sixty percent of the municipality's real property taxes prior to reassessment, they would continue to pay sixty percent of the municipality's real property taxes after reassessment.

As noted, in order to implement this option, an "approved assessing unit has to complete a property revaluation project that met State regulations." Once certified as "approved," the local governing body of the assessing unit could then adopt a local law stating its intent to tax properties within the two classes. In following years, the approved assessing unit is required to make annual adjustments for different rates of appreciation in the two classes of property, subject to a five percent cap on the tax burden shift between classes. The state has since enacted special laws for specific jurisdictions that limit these class-share shifts to one percent, largely to prevent substantial increases in homestead class property taxes.

RPTL Section 1903 (4) provides mechanisms to allow homestead taxing jurisdictions to adjust the homestead and non-homestead shares in the first year they adopt the homestead option and, to a lesser extent, in subsequent years. According to the Office of Real Property Tax Services, this allows municipalities to significantly reduce the difference between homestead and non-homestead shares in the first year and keep them relatively close in subsequent years. It is important to note that we know of no jurisdictions that have used these mechanisms in the first year of the homestead system adoption. This is because they adopted the homestead system to reduce the increase in homeowners' real property taxes due to a full value reassessment of residential and non-residential properties. In addition, homestead jurisdictions, such as the City of Kingston, that have attempted to use these mechanisms to reduce the difference between the homestead and non-homestead tax shares have only been able to do so on a very incremental basis.

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[11] Under Article 18 Class 1 consists primarily of one, two, and three-family houses but other property types have been moved into Class 1, including small condo buildings with three or fewer units that were built as condos. Class 2 consists of all other residential properties including coops and condos not in Class 1. Class 3 includes property of regulated utilities and holders of franchises and Class 4 consists of all other property, ranging from gas stations and corner stores, to factories and warehouses, up to office skyscrapers.

[12] Homestead is defined here as one, two, and three-family residential units, farm homes, mobile homes that are owner-occupied and separately assessed, and originally constructed condominiums. Non-homestead refers to all other properties including apartment and commercial buildings.

Furthermore, the mechanisms available under RPTL Section 1903 to diminish homestead and non-homestead differential shares at adoption are not available to villages and school districts which are located in split districts: those bridging two towns in which one has adopted the homestead system and the other has not. The adjustments these jurisdictions can make are governed by RPTL Section 1903-a. So, if the Town of Ossining adopted the homestead option, the Ossining and Briarcliff Manor School Districts (whose tax comprise between three fifths and two thirds of the town's property tax burden) would be governed by RPTL Section 1903-a: They would not be able to make significant changes in their homestead and non-homestead tax shares.

In Ossining, the proponents of the homestead option believe that any negative impact on commercial property values or economic development within the town can be ameliorated by adjustments in the initial and subsequent homestead and non-homestead class shares allowed under RPTL Section 1903 (4). They have overlooked that these types of adjustments are not available for a significant portion of the town's property tax burden.

School Districts

School districts may adopt the homestead/non-homestead system if one-fifth of the district's parcels are located in a homestead taxing jurisdiction. The determination of class shares is based on current market value, with adjustments at the discretion of the school district within limitations set by law. According to the Office of Real Property Tax Services twenty-four of the forty-eight municipalities and twenty of the thirty-eight school districts that currently use this system are in downstate suburban Nassau, Suffolk, Rockland, and Westchester Counties.

Under RPTL §1903 (9) and §1903-a (5) approved assessing units and school districts may opt out of the homestead property tax system simply by adopting a local law or resolution, without referendum, to rescind the system before the next levy of taxes. According to the Office of Real Property Tax Services, only three places that chose to use it have opted out of the homestead tax system: Beekman in 1992 (excepting the Arlington School District), Schenectady in 1999 and Colonie in 2010.

The Argument for Change

Because revaluation in Ossining has already been implemented, the homestead/non-homestead option is not needed to achieve the intended policy purpose: easing the potential tax shock of full valuation in the pursuit of tax equity. No municipality in the state has adopted the homestead/non-homestead option a year or more after its initial adoption of a full value reassessment.

Equity

Equity remains the core concern for advocates of the homestead/non-homestead adoption in Ossining. Condominiums as a privileged class of property for tax purposes under a single tax rate, they say, undermines the fundamental *ad valorum* character of the property tax. *Ad valorum* means "in proportion to value." The property tax is designed to gather governmental resources in amounts proportional to ownership of one specific form of wealth: real property and improvements upon it. Therefore, properties with the same market value should have the same tax liability. Those with this view draw attention to the irony of revaluation for equity-sake when differential condominium assessment ensures continued inequity after revaluation is accomplished.

Table 1: 2018 Estimated Property Tax Rates & Bills in Ossining if Homestead Option is Adopted (excluding Exemptions)

CONSOLIDATED TAX RATES		Actual Rate per $1,000	Homestead Rate (Residential)	Difference for Residential	Non-Homestead Tax rate (Commercial)	Difference for Commercial	Rate Difference Between Residential & Commercial
Town Unincorporated		$38.62	$34.91	($3.71)	$37.46	($1.15)	$2.55
Village of Ossining		$42.19	$38.19	($3.99)	$40.70	($1.48)	$2.51
Village of Briarcliff, Ossining Schools		$36.44	$33.13	($3.31)	$35.17	($1.27)	$2.04
Village of Briarcliff, Briarcliff Schools		$31.85	$29.94	($1.91)	$29.15	($2.70)	($0.79)
AVERAGE RESIDENTIAL TAX BILL	**Average Assessed Value**	**Actual Tax**	**Tax With Homestead**	**Homestead Tax Decrease**	**Homestead Tax % Decrease**		
Town Unincorporated	$458,000	$17,686	$15,989	($1,697)	-9.60%		
Village of Ossining	$348,000	$14,681	$13,291	($1,390)	-9.50%		
Village of Briarcliff, Ossining Schools	$817,000	$29,771	$27,070	($2,701)	-9.10%		
Village of Briarcliff, Briarcliff Schools	$817,000	$26,019	$24,457	($1,562)	-6.00%		
AVERAGE CONDO TAX BILL	**Average Condo Values Income**	**Actual Tax**	**Tax With Homestead**	**Homestead Tax Increase**	**Homestead Tax % Increase**	**Average Condo Values Market**	
Town Unincorporated	$211,000	$8,148	$13,441	$5,293	65%	$385,000	
Village of Ossining	$191,000	$8,057	$12,527	$4,470	55.50%	$328,000	
Village of Briarcliff, Ossining Schools	$266,000	$9,693	$16,202	$6,509	67.20%	$489,000	
Village of Briarcliff, Briarcliff Schools	$266,000	$8,471	$14,638	$6,167	72.80%	$489,000	

AVERAGE COMMERCIAL TAX BILL	Average Assessed Value	Actual Tax	Tax With Homestead	Homestead Tax Decrease			
Town Unincorporated	$2,515,000	$97,119	$94,218	($2,901)			
Village of Ossining	$1,296,000	$54,672	$52,752	($1,920)			
Village of Briarcliff, Ossining Schools	$2,435,000	$88,731	$85,637	($3,094)			
Village of Briarcliff, Briarcliff Schools	$2,435,000	$77,547	$70,978	($6,569)			
2017 FINAL ROLL WAS BASIS FOR 2018 ACTUAL TAX RATES & BILLS							

(Table 1 Continued)

Table 2: 2018 Average Tax Bill For the Town of Ossining Only

Property Class	Current Assessed Value	2018 Tax Rate	2018 Tax	New Assessed Value	Homestead Option Tax Rate	Homestead Option Tax	$ Change	% Change
Single Family Home	$458,000	5.419662	$2,482.21	$458,000	4.69562	$2,150.59	($331.62)	(13.36)
Condo	$211,000	5.419662	$1,143.55	$385,000	4.69562	$1,807.81	+$664.26	+58%
Commercial	$2,515,000	5.419662	$13,630.45	$2,515,000	5.28781	$13,298.84	($331.61)	(2.43)

A comparison of two recent sales in Ossining illustrates their point. A 2900 square foot 3 bedroom, 3 bath unit in a Planned Unit Development (PUD) was purchased for $535,000 in May of 2018. Three months later, a 2352 square foot condominium unit with 2 bedrooms and 3 1/2 baths sold for $550,000. The tax liability of the former was $15,287; the latter, $9,439. This is a difference of 38.3%. More generally, advocates of change show that, based upon data provided by the town, the average 2018 condominium tax burden in the Village of Ossining is about $6,624 (45%) lower than that of comparably-valued non-condo-residences. (See Table 1)

These advocates have no particular commitment to the homestead/non-homestead option. If there was another way to achieve the equity they seek, they would likely consider it. But this option is the only path currently in place in New York law to this end.

Phase-in

Those who favor the homestead/non-homestead option acknowledge that the cost for condominium owners would be far greater than the benefit for owners of homes that are not condominiums. According to an estimate based upon data provided by the town assessor, Fernando Gonzalez, **the Homestead option's implementation would decrease the average homeowners' yearly property taxes by between 6 and 9.5 percent, while taxes for condominium owners would jump between 55 to 73 percent** (see Table 1). This would be between a $4,470 and $6,509 increase a year on average for condominium owners, and between a $1,390 and $2,701 decrease on average for other homeowners (see Table 1). Advocates would mitigate this negative impact on condominium owners by seeking special state legislation that would spread the impact out over a period of time; seven years has been mentioned.

Multi-jurisdictional Dimension

One caveat is in order. **These tax-shift estimates assume that if the town adopts the homestead/non-homestead option then all village, town, and school taxes will be collected on a homestead/non-homestead basis.** But the town's choice only directly effects its own assessment practice and, therefore, the levy for its own purposes. The town decision to adopt the homestead/non-homestead alternative opens up the option to the two villages and two school districts all or partly within the town of Ossining. But the governing boards of these entities must act independently to adopt it. In interviews for this study, leaders of these four governments expressed no affirmative interest in adopting homestead/non-homestead. **The potential average redistributive impact of adopting homestead/non-homestead in the Town alone is a $664.26 (58%) increase in condominium owners' tax liability and a $331.62 (13.36%) decrease for other town homeowners**. Commercial buildings would see their town tax bill decrease by $331.61 (2.43%) (Table 2)

Disincentive for Conversions

Another reason to change to the homestead/non-homestead approach is to close the door on conversion-to-condominium status of existing properties and/or the legal classification of newly developed property as condominiums simply to achieve lower property taxes.[13] That is, a legal fiction is created that properties are condominiums with no basis in some actual distinctive character of these properties, to provide a tax savings. A recent series of stories in *the Syracuse Post Standard* revealed that this is a growing practice across New

[13] https://www.lohud.com/story/money/personal-finance/taxes/david-mckay-wilson/2018/06/20/condo-tax-break-limbo/715530002/

York.[14] In Ossining, housing developed in connection with the Trump National Golf Course as condominiums gave owners there a 30% tax advantage. Ossining is among the localities that has recently adopted a local law, an option allowed under RPL 339-y(f) and RPTL 581(c), that bars a dwelling that has previously been assessed in a non-condo capacity from gaining a tax benefit by converting to a condominium .[15] But, though ameliorative state law has been proposed, there is still no local authority to deny or restrict the tax benefit that arises from newly-built condominiums.

The Arguments for No Change

The defenders of the status quo in property taxation in Ossining offer these arguments:

- Fairness requires the community to sustain the tax practices for condominiums that it knowingly accepted when these residences were reviewed and approved for construction in Ossining;
- Lower taxes are justified by lower levels of consumption of public services by condominium residents;
- The financial impact of change on condominium owners is draconian and would drive community members from their homes in Ossining;
- The homestead/non-homestead option places too heavy, too unpredictable a tax burden on commercial properties, impeding the community's economic development; and,
- As a practical matter, once adopted the homestead/non-homestead option is not reversible if it proves problematic.

Equity

Condominium owners offer an alternative idea of fairness to that advanced by their adversaries. Their condominiums in Ossining, they argue, were almost all built or converted after the adoption of the NYS Environmental Quality Review Law (1982). They were therefore approved for construction by the town government when state law required a review process that included consideration of tax and service impacts on the community, and with their preferential assessment treatment already embedded in law. The town made this "deal" eyes open. People bought properties on its basis. The town, they say, should keep the bargain it made.

The broad implication of this argument − that public policy once made cannot be changed if the change negatively affects some citizens − is unsustainable. Conditions in the community inevitably evolve over time; governing bodies are obligated to consider whether these changing conditions require policy adjustments or even the replacement of established policies with newer approaches. Nonetheless, as discussed below, the highly negative financial effects to condominium owners' homestead/non-homestead adoption are a legitimate concern for policy makers and have been an important consideration for other communities in the region that have faced this choice.

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[14] Michelle Breidenbach, NY State Gives Condo Owners Millions In Property Tax Breaks; The Rest Of Us Pay For It May 2, 2018 https://www.syracuse.com/state/index.ssf/2018/05/big_property_tax_break_for_ny_condos_leaves_neighbors_to_pick_up_the_bill.html

[15] Ossining Code Article IX §180-32 (2009)

Demand for Services

The idea that condominium owners are justified in paying fewer taxes because they consume fewer local government services, especially school services, is fundamentally flawed. Ossining does levy some fees on citizens/owners/consumers for specific services: water and sewer is an example. But taxes are not fees for services. They are general levies to meet the needs of the entire community, to assure community well-being. School taxes, although levied to support a single service, are paid by all property owners because schools are regarded as a social good, providing broad and fundamental societal value. Additionally school services are geographically specific; it is widely understood that good schools elevate property values for all who live in their service area. Whether or not condominium owners demand more or fewer school services than other citizens in the town is measurable but is essentially irrelevant as a justification for a lower tax burden on them.

Unaffordability

Regarding the board's adoption of homestead/non-homestead making Ossining unaffordable for some or all current condominium owners, the empirical question cannot be properly examined with available information. We can and do measure the potential size of the tax increase for some and – as shown − it is substantial. But determining "unaffordability" requires that we know the direct impact of these added taxes on each condominium owner relative to his or her capacity to pay. There were 1845 condominiums in Ossining in 2017. The affordability of tax increases for their owners due to a change to homestead/non-homestead will certainly be quite variable. Individual level data to measure how much impact for how many is not available.

Decline in Property Values

According to one analysis using data from Zillow, Moody's Analytics, and ATTOM Data Solutions, there will be an 11.1% average decline in Westchester homes value due to caps on the deductibility of state taxes and mortgage interest for federal tax purposes adopted in 2017; the greatest impacts will be on the highest end of the market.[16] Increased taxes on condominiums will add to their value loss, while decreased taxes on other residential properties will increase their value. One developer with extensive experience in building condominiums in Westchester, a strong opponent of homestead/non-homestead, asserts that each $1,000 increase in taxes reduces value by $20,000.[17] This is probably an overstatement. According to one model designed to assist potential home buyers to assess affordability, a family considering the purchase of a $550,000 condominium in Ossining under current taxes, a $60,000 down payment and a mortgage interest rate of 5% would have all-in monthly costs of about $4,470. To keep their monthly costs about the same, that family might pay only $496,000 for the same unit, if taxes were collected at the level required under the homestead/non-homestead option.

Economic Impact

Some government officials and business leaders in jurisdictions that have adopted the homestead/non-homestead option believe that this approach has been bad for the local economy. Al Samuels, long-time head of the Rockland Business Association, said that it had opposed the practice for decades. That's because

[16] https://www.curbed.com/2017/12/29/16808148/tax-bill-housing-market-calculate-change

[17] Interview with Martin Ginsberg, September 13, 2018.

commercial values in most suburbs grow more slowly than values for residences, if they grow at all. (In fact, in a number of places that aggregate value of commercial and industrial property, it has steadily declined.) Under these conditions, the rate of taxation of the non-homestead piece of the pie must grow faster and less predictably than does the homestead rate to deliver its required (largely fixed) portion of the levy; potentially creating a destructive cycle that provides a disincentive to commercial and industrial recovery, or additional development.

However, projections made by the Ossining town assessor in 2016 showed minimal potential increase in tax levy for commercial property from the adoption of a homestead/non-homestead system and an actual decrease for industrial properties. Under a replication done for this study, if homestead/non-homestead were in place for Ossining in 2018, the homestead tax rates per $1,000 of assessed value for Ossining would be $4.69562 for the town. And, if these jurisdictions opted in, assessment per $1,000 of value would be $9.80036 for the Village of Ossining, $5.10773 for the Village of Briarcliff, $22.7022 for the Ossining School District, and $20.06993 for the Briarcliff School District. At the same time, non-homestead rates would be $6.00805 for the town, $10.35190 for the Village of Ossining, $5.18387 for the Village of Briarcliff, $24.21854 for the Ossining School District, and $19.17050 for the Briarcliff School District (see Table 3). In addition, the non-homestead to homestead tax ratio for each jurisdiction within the town would range from 0.9554 to 1.126. This means there would be very little difference between the tax rates of homestead and non-homestead properties. In fact, in the Briarcliff Manor School District homestead properties would be taxed at a slightly higher rate than non-homestead properties.

Table 3: Tax Rates within the Town of Ossining if the Homestead Option Is Adopted

Jurisdiction	2018 Current Tax Rate $	2018 Homestead Tax Rate $	2018 Non-Homestead Tax Rate $	Non-Homestead /Homestead Ratio
Ossining Town-wide	0.753713	0.68329	0.72024	1.054
Ossining Unincorporated Town	5.419662	4.69562	5.28781	1.126
Ossining Village	10.849236	9.80036	10.35190	1.056
Briarcliff Manor Village	5.494999	5.10773	5.18387	1.015
Ossining School District	25.018840	22.37022	24.21854	1.083
Ossining Library	1.004475	0.89814	0.97234	1.083
Briarcliff Manor School District	21.430194	20.06993	19.17050	0.9554

This contrasts with experience elsewhere. Charts 1, 2, and 3 show the ratio of non-homestead to homestead rates in southern New York suburban communities for towns, villages and school districts that have adopted this system and for which we were able to obtain data. Note that commercial properties in each jurisdiction pay at significantly higher rates than do residential properties in all instances. The ratio ranges from 1.38 (Pelham) to 2.38 (Stony Point) for towns, 1.27 (Rye Neck) to 1.96 (Clarkstown) for school districts, and 1.21 (Nyack) to 1.55 (Rye Brook) for villages.

Figure 1

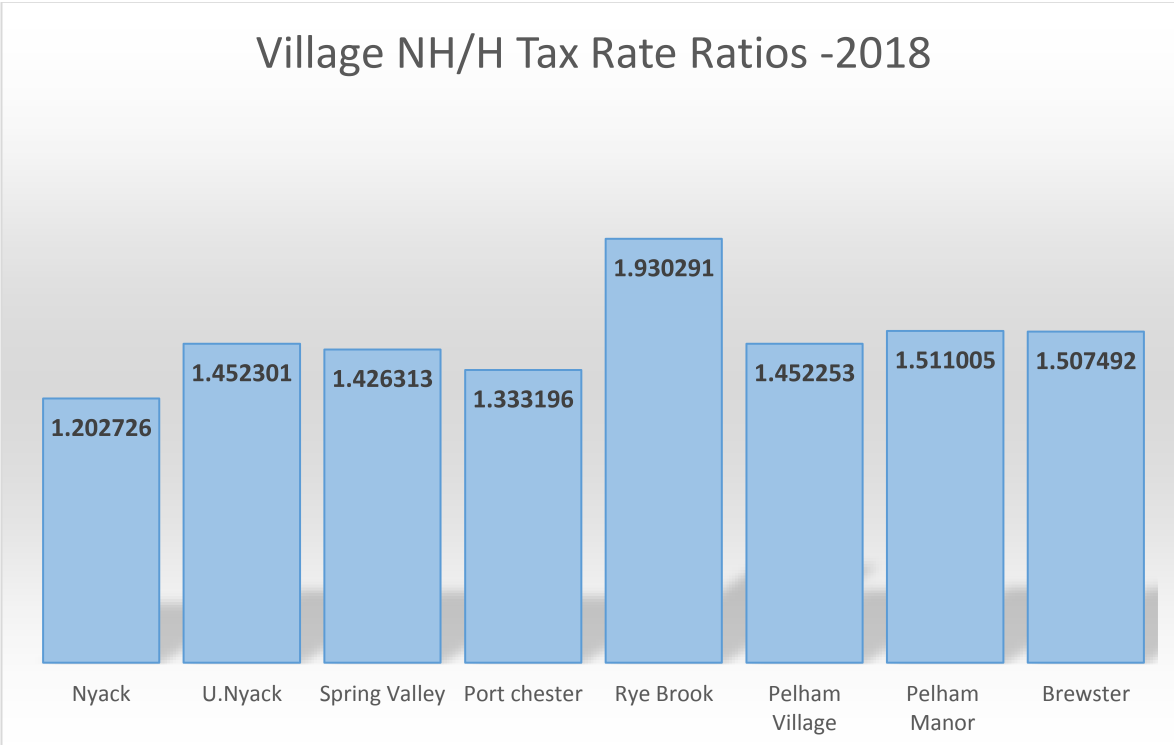


Figure 2

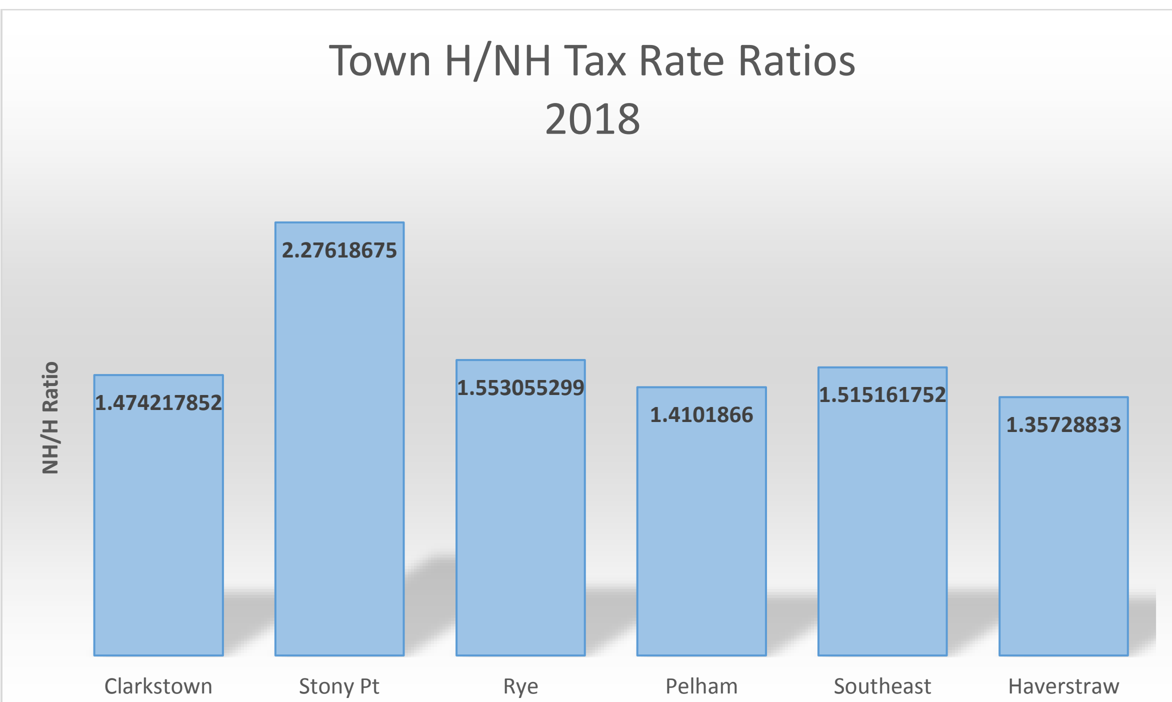
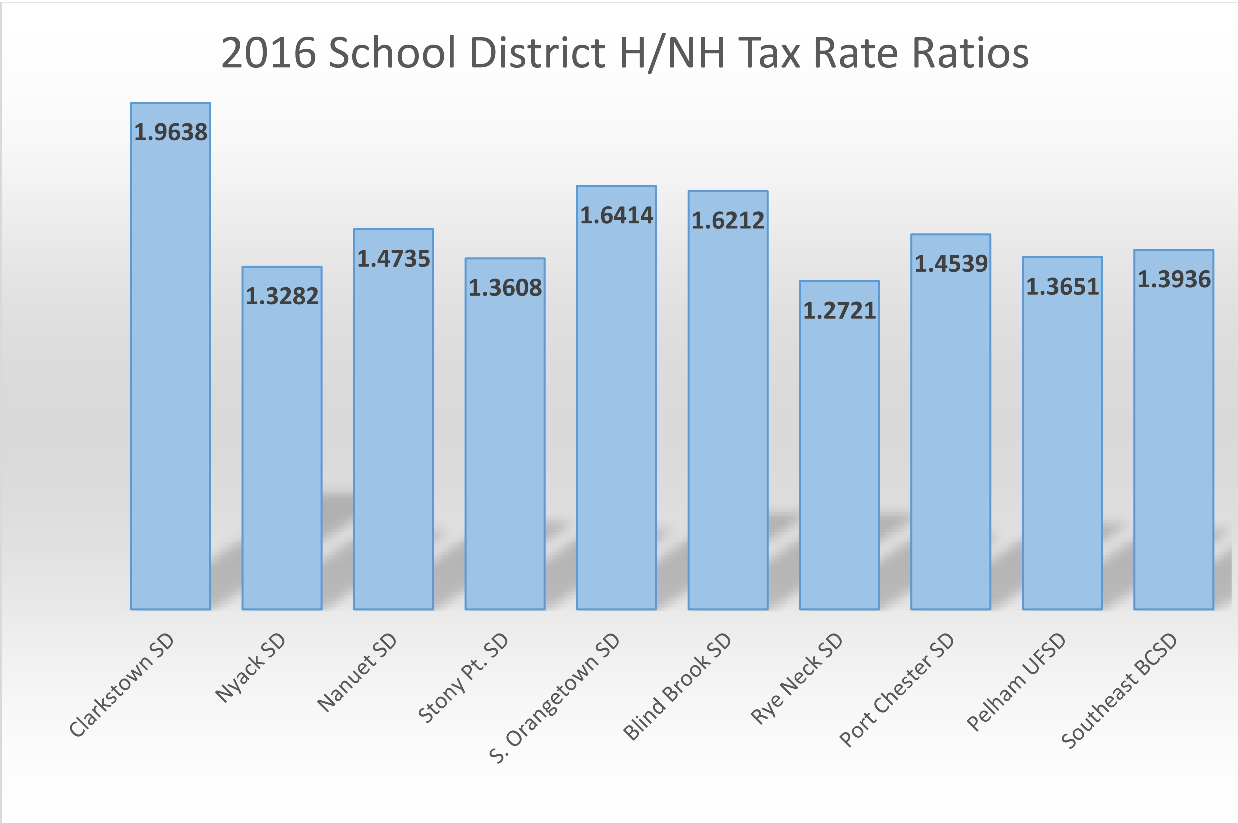


Figure 3



Previous Research

The most recent study of the impact of homestead/non-homestead adoption, which included a review of earlier work, reached three major conclusions:

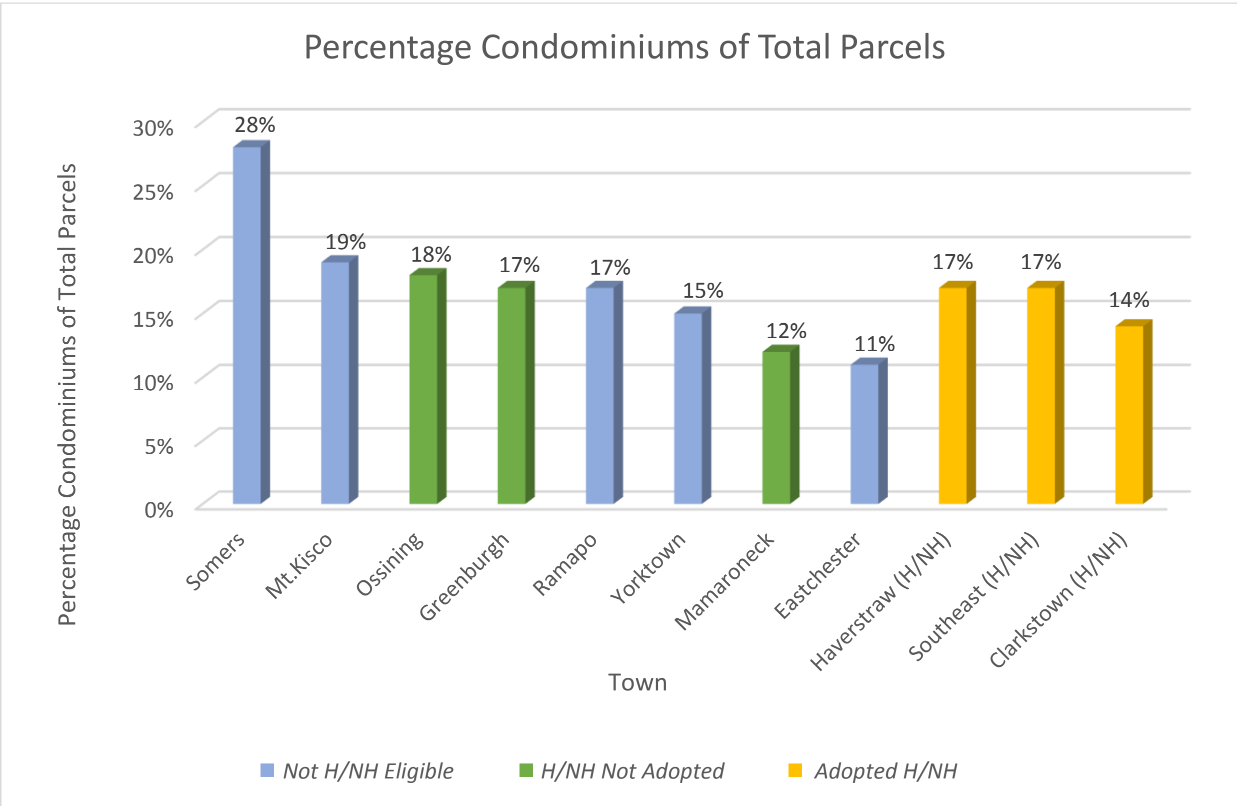
- "Higher property taxes paid by non-homestead property owners are borne mostly by those owners, are capitalized in a property's value, and have a negative impact on that value";
- "Differential rate of growth in value of homestead and non-homestead properties tends to widen the gap between the relative effective tax rate of the two property classes"; and,
- There is no statistical evidence that higher commercial property tax rates under the homestead property tax system have significant influence on business location decisions, but the homestead tax system has a "perceptual as well as real affect" on these decisions."[18]

[18] Tom Cetrino and Gerald Benjamin "Classification of Property for Taxation in New York State: Issue and Options" CRREO Discussion Brief #13 – Fall 2014. P. 7.

Additionally, work by Economics Professor John Yinger of Syracuse University cited the negative effect on business locational decisions of a widening gap, with no apparent cap, of the homestead/non-homestead option.[19]

Reactions in public meetings by advocates of the adoption of homestead/non-homestead brought into question the relevance of this research for Ossining. It was based, they argue, on experience in cities buffeted by large-scale social and economic change, not largely residential suburban communities. Moreover, they say, some smaller Hudson Valley cities – Beacon and Kingston were cited – actually have recently enjoyed a robust commercial real estate revival.

Figure 4



Interjurisdictional Comparison

To address this objection we sought information about the experience with the homestead/non-homestead option in suburban communities in Westchester and Rockland Counties from current and former elected officials, assessors and property tax administrators.

Non-adopters

Westchester, Rockland and Putnam counties have a number of towns with a significant number of condominiums but only a minority have done the necessary revaluation that makes them eligible for

[19] Tom Cetrino and Gerald Benjamin "Classification of Property for Taxation in New York State: Issue and Options" CRREO Discussion Brief #13 – Fall 2014. P. 7.

adoption of homestead/non-homestead (Chart 4). A 2017 press account noted that there were five towns in Westchester and Putnam Counties in addition to Ossining that had done revaluations in the previous five years but chose ***not*** to adopt the homestead/non-homestead option: Mamaroneck, Scarsdale, North Salem, Greenburgh and Carmel. Scarsdale and North Salem have a handful of condominiums and Carmel relatively few; change to homestead/non-homestead in these towns would have little impact. So, the salient comparisons are with Greenburgh and Mamaroneck.

Ossining has 67% of its parcels dedicated to housing, with 18% of these condominiums. Greenburgh has 65% of its parcels devoted to housing, and Mamaroneck 72%; the percentage of their parcels that are condominiums is 17% and 12%, respectively. Both of these towns are more affluent than Ossining. Average family income in Mamaroneck and Greenburgh ($114.5K, $115.2K) in 2016 was higher than in Ossining ($82.4K). (Table 4)

Leaders in Greenburgh and Mamaroneck said that one key reason for their decision not to adopt homestead/non-homestead was the potential tax shock for condominium owners, who had assumed a certain level of taxation when they purchased their properties; that is, fairness.[20] Steve Altieri, town administrator in Mamaroneck, noted that adopting homestead non-homestead there would have added significantly to the tax-shift effect of the revaluation itself. Local conditions were also significant. Some earlier built condos in the community would retain preferred assessment treatment under the law. Affluent homeowners did not strongly advocate change. Nor was there active involvement by the town's small business community. [21]

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[20] Interview of Gerald Benjamin with Supervisor Paul Feiner, August 2, 2018, and Supervisor Nancy Seligson, September 6, 2018. See David Proper Carmel Town Board Against Homestead Tax Option,' December 23, 2016 https://www.theexaminernews.com/lobue-tamagna-wrestle-over-county-busing-system-2/

[21] Interview by Gerald Benjamin, September 6, 2018.

Table 4

Five Points of Comparison - Ossining and Other Suburban Towns									
Town	**Assessment %**	**Town**	**% Residential**	**Town**	**% Condo**	**Town**	**Per Capita**	**Town**	**Median Household income**
Eastchester	1.13	Mt. Kisco	63	Eastchester	11%	Ramapo	$26,007	Mt. Kisco	$66,265
Yorktown	2.35	**Greenburgh**	65	Mamaroneck	12%	Haverstraw	$30,627	Ramapo	$67,891
Ramapo	11.9	Ossining	67	Clarkstown	14%	Mt. Kisco	$37,432	Haverstraw	$72,376
Somers	12.21	Ramapo	67	Yorktown	15%	**Southeast**	$40,128	Ossining	$82,440
Mt. Kisco	16.27	Yorktown	69	**Greenburgh**	17%	Ossining	$41,218	**Southeast**	$91,818
Clarkstown (H/NH)	31.5	Eastchester	72	**Haverstraw**	17%	Clarkstown	$45,406	Clarkstown	$105,364
Haverstraw (H/NH)	93.92	Mamaroneck	72	Ramapo	17%	Yorktown	$48,188	Yorktown	$108,616
Ossining	100	Haverstraw	72	**Southeast**	17%	Somers	$56,284	Eastchester	$110,360
Greenburgh	100	Southeast	76	Ossining	18%	Greenburgh	$60,224	Somers	$114,145
Mamaroneck	100	Somers	85	Mt. Kisco	19%	Eastchester	$70,207	Mamaroneck	$114,509
Southeast (H/NH)	100	Clarkstown	90	Somers	28%	Mamaroneck	$75,915	Greenburgh	$115,249

Adopters

Ossining's non-homestead sector and level of family income is similar to that in three towns with a substantial number of condominiums that did adopt homestead/non-homestead, but it has a modestly higher portion of commercial parcels. Reports from these towns on the effect of this choice were not consistent. Officials in Southeast, where it was adopted in 1996, reported homestead/non-homestead was "accepted as fair" by homeowners, condominium owners and businesses in their community and has not been an impediment to commercial development. However when the town and school district adopted the homestead system there was a great deal of opposition from condominium owners surrounding its adoption particularly when the estimated school taxes were released to the public. Despite this opposition the town and school district adopted the homestead system to protect homeowners from a very large increase in their property taxes because of the countywide revaluation that was conducted in 1996. Town and school district officials felt the protection provided to homeowners from significantly increased property taxes due to revaluation outweighed the increase in taxes condominium owners had to pay due to the loss of their tax break.

In Haverstraw and Clarkstown, however, homestead/non-homestead was viewed as having a significant negative effect on the local economy, especially because, local leaders said, these towns near New Jersey and must compete for business locations with municipalities in that state.[22] One supervisor described the homestead/non-homestead system to be a "necessary evil" used to mitigate the negative effect of a number of events with traumatic impact on the local tax base.

Professional Best Practice

Bill Beckmann, an assessor with extensive experience in Rockland County towns and currently the assessor in Stony Point, described homestead/non-homestead as a kind of "heroin for homeowners" because it creates dependency; once adopted, the "cold turkey" tax shock of returning to a single rate system made such a reversal politically impossible. Beckmann attributed the loss of the manufacturing /industrial property tax base in the Route 303 corridor in Rockland to the progressively worsening impact of the homestead/non-homestead system in the county's towns over time.

Though they did not say that it elevated the workload of their offices, because of the availability of valued state guidance and support, assessors interviewed for this study did not favor the homestead/non-homestead system. This reflected the long-held position of their statewide association that "Articles 18 and 19 of the Real Property Tax Law have become an administrative nightmare and leads … [sic]… to inequity and political conflict in the assessment process."[23]

Year to Year Volatility

A major concern with the homestead non-homestead system is its alleged volatility: opponents say that when it is used, tax obligations for properties in one or the other of the two classes (usually the non-homestead class) move very significantly from year to year. We attempted to measure this by tracking

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[22] A Pattern for Progress study prepared in 2016 for the Rockland Business Association found homestead/non-homestead to be burdensome for local businesses http://www.pattern-for-progress.org/what-we-do/directed-research-services/recent-directed-research/

[23] https://www.nyassessor.org/legislative-agenda.html

changes over time in the ratio of non-homestead to homestead tax rates in selected suburban towns, villages, and school districts that use this system for which we could get data.

The results are presented in charts 5, 6 and 7. Volatility appears to be a lesser problem for town taxes. The ratio moves minimally and within a relatively narrow band for Clarkstown, Southeast and Pelham. It is greater in Rye, and much higher and far less predictable in Stony Point.

The pattern seems similar for villages, with relative stability in the ratio, especially in recent years. The exception is Rye Brook, with relatively high non-homestead burden, and a precipitous increase in the non-homestead rate relative to the homestead rate in 2018.

By far the greatest proportion of property taxes is collected by school districts, and it is here that the ratio between non-homestead and homestead rates is most variable. The Clarkstown and South Orangetown districts have the highest rates. At different rate levels, major year to year change in the slope of the line is evident in more recent years for four of the nine districts for which we have data. Sometimes this reflects special local circumstances. The Blind Brook School District reported in its 2018-2019 budget message that "… the District was hit with an unexpected tax certiorari settlement expense of $4.75 million dollars because of the Town of Rye's overassessments of the Doral and Reckson properties. The District has borrowed money to pay these tax refunds and now must begin budgeting to pay the principal and interest payments on these 20-year bonds."

Blind Brook's experience could also occur in Ossining through a significant reduction in the assessed value of commercial property because its owners and use changes or it ceases its operation. In such a case, the non-homestead share of the property tax revenue pie remains the same subject to a legal limit of a 5% annual shift between the two classes. This would result in the remaining non-homestead properties having to pay greater taxes in order to meet the non-homestead share of its property tax obligation which would increase Ossining's non-homestead to homestead tax ratio as it did in the Blind Brook school district in 2018.

As noted, to constrain volatility in rates, the original legislation establishing the homestead/non-homestead option limited to 5% the annual shift in the "base proportion" made up by either of the classes. More recently, to "create stability in the tax base from year to year" a further limit of 1% was applied by special law to specific places by the state legislature. This was done for Clarkstown in 2017-2018 and Orangetown for 2018-2019.[24]

Most recent planning documents indicate that Ossining's intent is to remain largely a residential community. The town has 53 rental apartments under construction and another 189 approved. An additional 383 units are being built largely for seniors − for independent living, assisted living and care of those with Alzheimer's and related conditions. So, if homestead/non-homestead is adopted for the town, the homestead class has significant near-term assured growth in its base. As noted, modeling shows that the immediate tax increase from change on the non-homestead side is small. There are some examples in other towns of severe negative impact over time – highly volatile, rapidly increasing property taxes especially for the non-homestead class. But evidence also shows that increased year-to-year burden upon its share of the base over time can be contained (though repeated passage of special state legislation is an uncertain strategy.)

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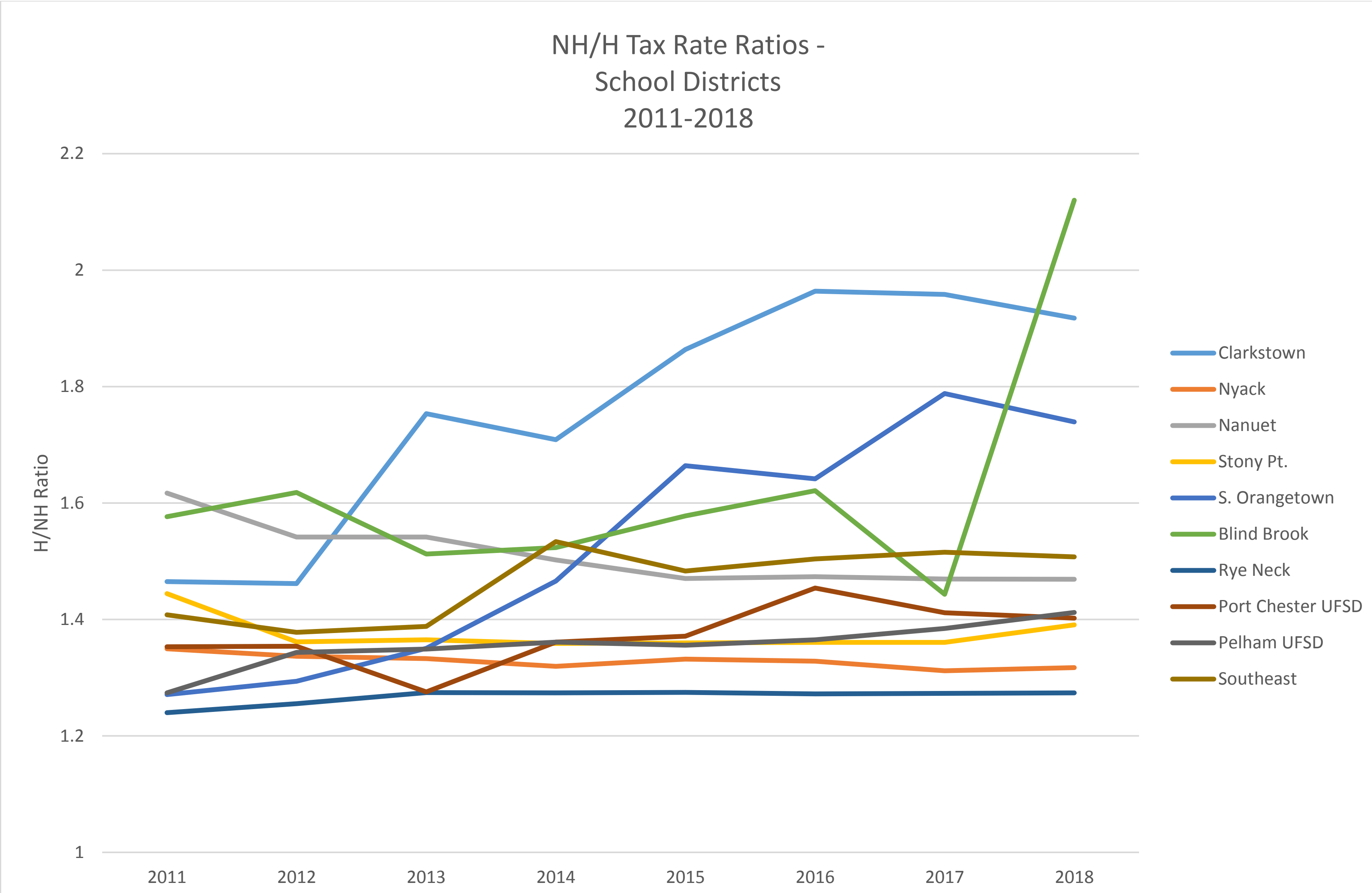
[24] Real Property Tax Law §1903.3.III and xix (two paragraphs, same number).
https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A07513&term=2017&Summary=Y&Memo=Y

Figure 5


NH/H Tax Rate Ratios -
School Districts
2011-2018
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1
H/NH Ratio
2011
2012
2013
2014
2015
2016
2017
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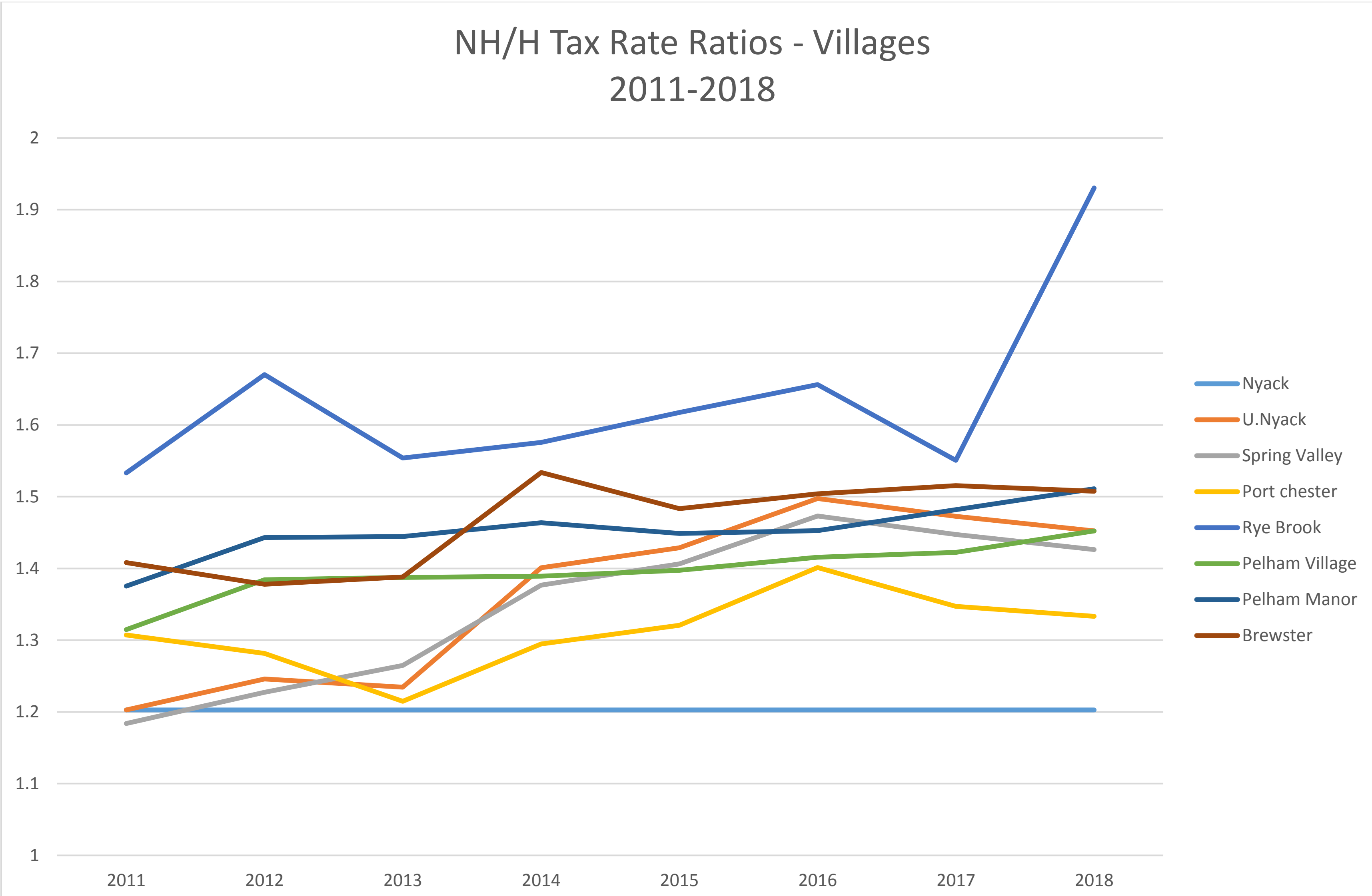
Clarkstown
Nyack
Nanuet
Stony Pt.
S. Orangetown
Blind Brook
Rye Neck
Port Chester UFSD
Pelham UFSD
Southeast

Figure 6


NH/H Tax Rate Ratios - Villages
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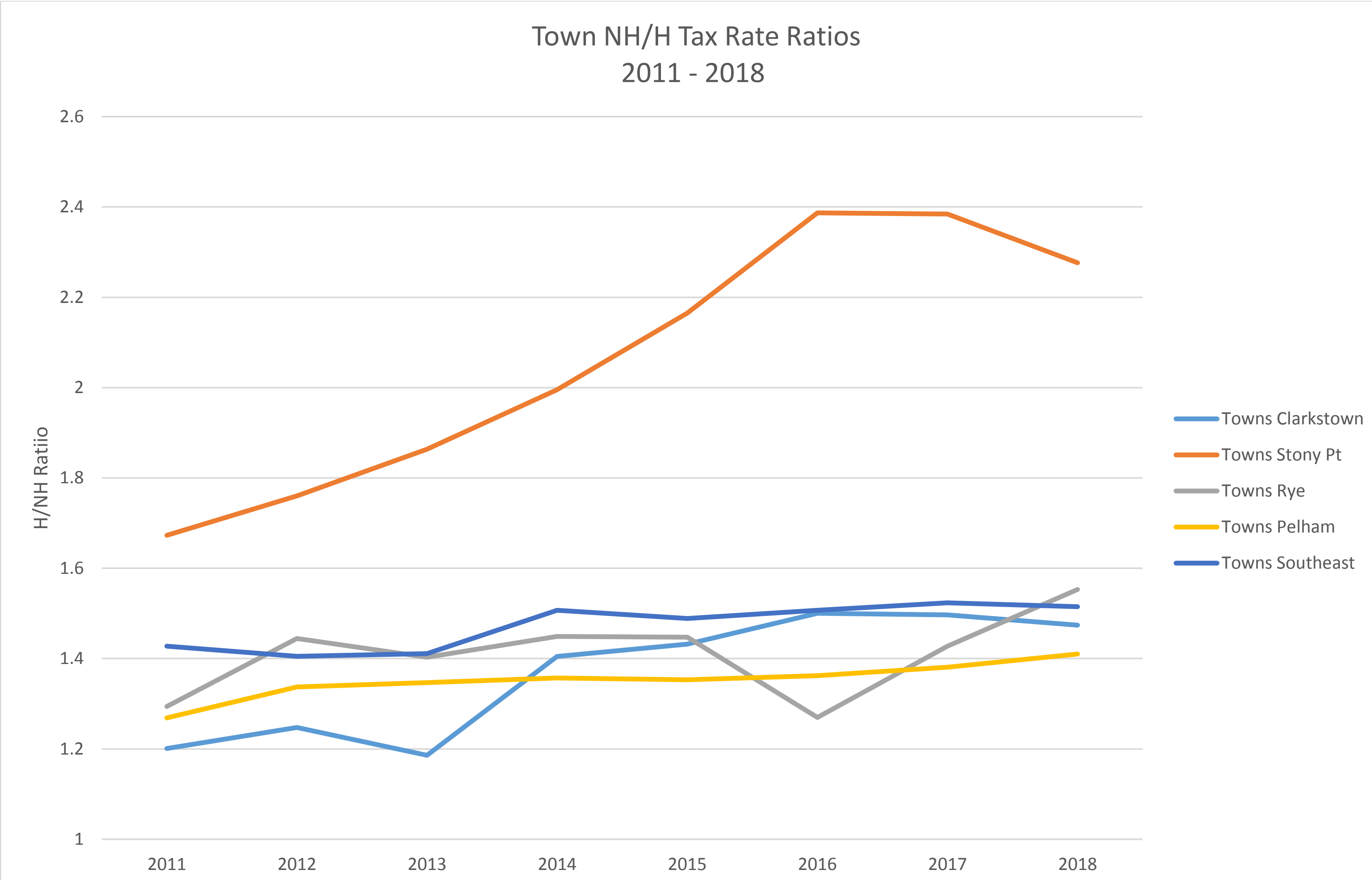
Pelham Village
Pelham Manor
Brewster

Figure 7


Town NH/H Tax Rate Ratios
2011 - 2018
H/NH Ratiio
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Towns Clarkstown
Towns Stony Pt
Towns Rye
Towns Pelham
Towns Southeast

Remedies and Policy Choices

Equity in property taxation is a primary goal of state tax policy. Yet the method mandated by the state for assessing the value of condominiums for taxation results in substantial inequity in the distribution of the property tax burden, and an incentive to organize new developments as condominiums solely for tax avoidance. And, ironically, the homestead/non-homestead option for administering the property tax – designed as an incentive to achieve greater tax equity while avoiding a very high single year tax increase, a "tax shock" – assures that such a shock will occur if it is adopted after revaluation in Ossining and other communities with a substantial number of condominiums. It is important to note that we know of no jurisdiction that has adopted the homestead/non-homestead option after initially rejecting it following a revaluation of its properties at full market value. That is because jurisdictions that adopt this option primarily do so to ameliorate the increased property taxes for homeowners after a revaluation. We also know of no jurisdiction that has adopted the homestead option to solely address the inequity in how condominiums are valued for the purposes of determining their property tax burden.

Remedies at the state level are clearly needed. State legislation to allow newly built or converted condominiums to be assessed and taxed based on their market value has been entered in the Assembly and Senate since 2007-2008. The Assembly sponsor has been Sandra Galef, chair of the Assembly Real Property Tax Committee and the member in whose district Ossining is located. The Senate sponsor has been Betty Little, a Republican member from the North Country and former chair of the counterpart committee in her house. This bill passed for the first time in the Assembly in 2018; it did not reach a vote in the Senate. [25]

This proposed legislation is entirely prospective. Though options have been discussed, there have been no state approaches to remedy tax inequities currently in place, or to empower localities to do so. Four state policy changes have been suggested:

- Require condominiums to be assessed at market value;
- Require condominiums to be assessed at market value, with a phase-in over time (seven years has been suggested) to mitigate the resulting tax shock;
- Retain the current condominium assessment policy for current owners, but require condominiums to be taxed at market value after they are sold or otherwise transferred to new owners. A variation on this approach would eliminate the tax break after the second sale or transfer;
- Link the continuation of the condominium tax break to income eligibility levels similar to those used for the STAR tax exemption. This would restore the tax break to its original policy objectives of creating affordable housing and middle-income home ownership. The tax break for others would be phased out over time.

The first of these choices results in tax shock. The second doesn't achieve equity for current taxpayers, while also making it likely that condominium owners will have a long period of property tax increases. The third avoids an immediate tax liability impact, but devalues condominiums in the real estate market. This is likely the least bad option for long-time condominium owners, as the reduction in value is likely offset by

[25] A02874 (2017-2018) passed on June 18, 2018. S01191- B

appreciation over time. Option four would affect some condominium owners but not others. Calculating its actual impact would require data on the income level of individual condominium owners in Ossining.

There were 344,800 condominium residences in New York State in 2017.[26] Of these, 115,844 were in New York City.[27] Voters in that city are critical in electing statewide officials and its representatives are very powerful in the state legislature, especially the state Assembly. This makes the prospects of the adoption of any of these policies unlikely in usual political circumstances. However, a lawsuit has been recently launched by a coalition organized as Tax Equity Now, to challenge alleged inequities in property taxation practices in the state.[28] And New York City Mayor Bill DiBlasio has recently appointed a Commission on the matter.[29] If the broad question of state property tax policy is opened and forced onto the state's political agenda by these initiatives, as it was in the 1970s, serious consideration of these options for changing state policy regarding condominium taxation may be considered as one element of reform.

Ossining has used its authority provided in law to block condominium conversions and the tax advantages that would ensue. (As noted, the town has no power to address the benefits accruing to newly constructed condominiums). We have shown that because of the nature of its economy, adopting the homestead/non-homestead option would likely not have the negative impact on non-homestead properties in Ossining that it has had in some other communities in the state; in particular, upstate cities. Moreover, the immediate impact would be on town taxes only. Homestead/non-homestead would have to be separately adopted by the town's two villages and in particular its two school districts to produce the full "tax shock" that is feared by some, and/or equity sought by others, and officials of these governments have not yet seriously considered this action.

Yet the town's choice is critical. Experience shows that as a practical matter, once adopted, homestead/non-homestead is very hard to reverse. These other four governments cannot consider the homestead/non-homestead option unless and until the town acts. And neither the town nor its villages and school districts can mitigate the impact of the resultant tax increases without further state authorization.

Nor is it insignificant that the homestead/non-homestead option is negatively regarded by almost all of those with direct hands-on experience: the officials who must administer it. Their principled point is that it embeds inequity in its very character by requiring different rates for different classes of property. That is, it is not based on value. Their pragmatic point is that it is adds complexity to an already hard to understand system, increasing opacity, obscuring taxpayer understanding and therefore diminishing the accountability of public officials. To cite just one example, Meredith Robson now the village manager of Ardsley, who administered a homestead/non-homestead system when city manager of Beacon, recommended avoiding its adoption at all costs.

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[26] https://www.census.gov/programs-surveys/ahs/data/interactive/ahstablecreator.html#?s_areas=a00036&s_year=s2015&s_tableName=Table0&s_byGroup1=a1&s_byGroup2=a1&s_filterGroup1=t1&s_filterGroup2=g1&s_show=S

[27] https://www1.nyc.gov/assets/rentguidelinesboard/pdf/18HSR.pdf

[28] https://taxequitynow.nyc/about/ . Tax Equity Now vs. City of New York. For the decision recognizing standing to sue that summarizes the arguments see https://www.politico.com/states/f/?id=00000166-128f-d20d-a57f-969f00fb0001

[29] https://commercialobserver.com/2018/05/mayor-council-speaker-unveil-new-property-tax-reform-commission/

The prospect of the adoption of homestead/non-homestead offers the Ossining Town Board a Hobbesian choice: continue an inequitable status quo or achieve equity by imposing immediate tax increases, risking larger additional ones and/or effecting serious long-term financial costs upon about one quarter of the towns' homeowners. This research does not define a best local alternative; current state policy provides the town no pragmatic method to achieve the desired tax equity. Therefore, it suggests the prudence of forestalling change until state policy revision is achieved that mitigates the negative effects of available alternatives on so many of the town's residents.