

Why property taxes are unfair in Delaware

The News Journal - Wilmington, Del.

Subjects: Tax assessments; Property taxes; Educational materials; Tax revenues; School districts; Tax increases; Counties

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Date: Jul 1, 2007

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Section: NEWS

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UNEQUAL PROPERTY-TAX BURDENS

By MIKE CHALMERS

The News Journal

In 2005, Michael and Teresa Bauguess bought a moldy, decrepit trailer in the Holly Leaf Estates mobile-home park near Georgetown for \$55,000.

The Conestoga, Pa., couple replaced it with a 1978 model and hope to retire there someday. They'll pay \$32.54 in Sussex County property taxes this year.

Also in 2005, just 10 miles to the east, lifeguard-turned-disgraced-lobbyist Michael Scanlon sold the landmark House of the Seven Gables in Rehoboth Beach for \$2.6 million. That house carries an annual county tax bill of \$131 -- just \$99 more than the Bauguess' trailer, despite being worth almost 50 times as much.

Why? Because in tax collectors' eyes, the Bauguesses' home is worth \$16,200, and the one Scanlon owned is worth \$65,300. They set those values in 1974 and have not updated them.

"I'd be glad to switch homes with him," Michael Bauguess said.

Scanlon, one-time aide to former House Majority Leader Tom DeLay, and partner Jack Abramoff pleaded guilty in 2005 to scamming several American Indian tribes. Scanlon has made millions on Sussex County real estate but has paid little in yearly property taxes.

Thousands of homeowners statewide are in the same situation as the Bauguesses because it has been decades since the three counties realigned properties' assessed values with their market values, a process known as reassessment.

And because some housing areas boomed and others lagged during those decades, the result has been a widening and uneven gap between market values and assessments.

"If constituents really knew the disparity in the taxes, there'd be a revolt," said state Sen. Gary Simpson, R-Milford.

The basic unfairness of property taxes throughout Delaware creates several problems:

* Because homeowners' taxes are no longer based on the value of their properties, tax burdens often fall heaviest on the poor. Experts say Delaware's counties are ripe for lawsuits claiming the tax burdens are unfairly distributed, because state law requires that tax assessments be based on the actual value of property. Such lawsuits have been filed -- and won -- in other states.

* The financial problems of local governments are exaggerated by outdated assessments. Without the gradual growth in property-tax revenues that regular reassessments provide, local governments tend to postpone tax increases until they are forced to make big hikes, experts said. New Castle County was in such a crunch recently and had to raise property taxes 17.5 percent.

* Outdated assessments also affect school districts. About three-quarters of property taxes go to school districts, which must pay for new buildings, more teachers and more educational materials. Brandywine School District last month pushed through an \$8.9 million referendum to cover rising costs in the face of stagnant property assessments.

"The whole reassessment system in this state is really screwed up," said Ronald Smith, a former Kent County commissioner who pressed for reassessment before leaving office in January. "There's no other way to put it."

Can state help?

Simpson and county leaders say it's time for the state to pay the \$20 million to \$40 million cost of reassessment, followed by passage of a law requiring the state or counties to update assessments every few years.

Brooks Banta, president of the Kent County Levy Court, said it is critical to reassess more often. "Then the burden doesn't become so tough on homeowners," he said.

In every legislative session for more than a decade, Simpson and other legislators have proposed measures requiring reassessment, including one plan that would have put the state in charge of the process. The proposals went nowhere.

That's partly because the state has no business doing property assessments, said House Minority Leader Rep. Robert F. Gilligan, D-Sherwood Park. "We derive no income from property taxes, so I don't know why we would do it," Gilligan said.

Most of the state's revenue comes from corporate franchise and personal income taxes, as well as slot-machine revenues.

The lack of financial benefit is exactly why reassessment should be a state job, supporters say. Local elected officials have to explain their decision to angry property owners whose taxes may increase in a reassessment, but state officials can say they were just trying to make the system fair for everyone.

Gilligan said his opposition to state involvement has nothing to do with reassessment's potential impact on his second home a block from the beach in Lewes. The home is assessed at \$49,200, Sussex County records show. Nearby properties are assessed at a median \$38,300 but have sold for a median \$715,000 recently, or almost 19 times their assessed value. Such a neighborhood would likely see its tax bills skyrocket after a reassessment.

"I pay whatever taxes the county imposes," Gilligan said.

'It isn't a fair system'

Reassessment is a complex issue that is often misunderstood by political leaders and property owners.

A property's assessment is not the same as what a buyer pays, known as the market value. Instead, assessments are special values that governments give each property to determine how much tax each owner must pay. At one time, they closely reflected market values.

Over many years, market values rise faster in some areas than in others. The tax burden becomes unbalanced, and reassessment is needed to restore equity.

Kent County last reassessed property values in 1987. Half of the homes there have sold for more than 2.8 times their assessed values since July 2005, county records show.

In New Castle County, which reassessed in 1983, half of all homes have sold for more than 3.8 times their assessed values.

The problem is most acute, though, in Sussex County, which has not reassessed since 1974. There, homes sell for a median 6.9 times their assessed value -- ranging from 1.5 times to more than 50 times assessed value.

"We've had such a drastic change from the east side to west side of the county, it's very clear there's a gross inequity in the assessments," said Eddy Parker, the county's director of assessments. "It isn't a fair system, and the further we get away from 1974, the more unfair it becomes. The average taxpayer doesn't understand that, so they don't object to it."

Unbalanced tax burden

Restoring balance to property assessment means owners who have effectively enjoyed a break on their taxes for years would see their tax bills increase. Those who have been overpaying would see lower bills.

"It's a matter of who's paying what percentage of those dollars," said Smith, the former Kent County commissioner.

The delay in reassessment has shifted more of the property-tax burden onto poorer neighborhoods, while homeowners in expensive areas pay less in relation to their homes' value, county property data show.

For example, the massive homes of Applecross, a new development off Montchanin Road in Greenville, are assessed at a median \$397,000 -- but sell for a median \$2.3 million. That is about six times their assessed values, so reassessment would likely lead to higher taxes there.

Meanwhile, town homes in the distressed neighborhood of Edgemoor Gardens in Fox Point have sold recently for a median \$75,450 but are assessed at a median \$25,000. The sale price is only about three times their assessed value, so taxes there would likely drop after a reassessment.

George and Vicky Gorman, who bought a house for \$515,000 in 2005 just north of the Kent County-New Castle County line, said they didn't realize how out of balance the assessments had become. Their home is assessed at \$100,000, meaning their tax bill would likely rise after reassessment. That prospect concerns them, but they understand the need for equity.

"Obviously, it's not fair," George Gorman said. "If we're paying tax rates [on property assessments] that are 20 or 30 years old, we're probably due for an increase."

Added Vicky Gorman: "It's nice to hear we're on the winning end of a deal, though."

State law requires every property to be "assessed at its true value in money," which state courts have interpreted as its fair market value, said Nicholas Mirkey, an associate professor of tax law at Widener University School of Law.

Mirkey said it was "incredible" that no one has used that law to sue the state or the counties to force them to reassess.

It does not surprise Sussex County Administrator David Baker. County taxes are so low that it makes little sense for anyone -- property owners or the county -- to fight for a change, he said. "If you're only paying \$100 a year, why would you incur an expensive lawsuit to fight that?" Baker said. "How much should the county spend to reassess a property where the tax bill would go up or down by \$20 or \$30?"

Teresa Bauguess said the fact that taxes are low is beside the point. They are still unfair, she said.

Maryland provides model

New Castle County Executive Chris Coons is one of the biggest proponents of reassessing property values every few years, once all assessments have been brought up to date. Such a system is called "rolling reassessment."

With property assessments stuck in 1983, "the property-tax [income] doesn't go up as fast as our need for services," Coons said. To pay for those services, the county must raise the tax rate, as it did in May by 17.5 percent. Last year, a county financial task force recommended rolling reassessments to avoid big tax hikes in the future.

Coons points to Maryland's system of rolling reassessments as a model for the county. There, a third of the properties are reassessed based on their market value every year, so that state assessors update all 2.3 million parcels every three years.

The advantage to such a system is that assessments rise as sale prices rise, said Jacqueline Byers, director of research for the National Association of Counties. That means government can bring in more revenue to pay increasing costs without having to boost the tax rate much, if at all.

"If you capture the market, you can raise the rate by just a few pennies and make enough revenue to carry through the year," Byers said.

County leaders say the other advantage of Maryland's system is that it's run by the state, rather than counties.

Bill Stansbury, Maryland's supervisor of assessments, said legislators made it a state job in 1973. "We're not the people who get the money, so the politics are out of it," Stansbury said.

Opponents: Too expensive

Politics is a major reason why Delaware's leaders have delayed reassessment for decades.

"You've heard of NIMBY? Not in my backyard?" Byers said. "This is NIMTOO: Not in my term of office."

Political leaders and observers call reassessment "volatile," "toxic" and "a nightmare." It's expensive, takes years to complete and raises the tax bills of about a third of property owners.

"Why would you tackle a big-price tag issue that will anger a lot of people?" said Smith, the former Kent County commissioner. "For a politician, that's a no-brainer."

The General Assembly came close to paying for a statewide reassessment in 1995 but backed off under pressure from some property owners.

"They looked at the people they were going to make mad, rather than the people they were going to make happy," said Bob Voshell, who pushed the measure as a Democratic state senator from Milford. "They figured things are going well and people aren't complaining. And they're probably not complaining because they don't know what's going on."

Among those who openly criticize the idea are homeowners who would likely see their taxes increase and politicians who believe, mistakenly, that reassessment would automatically raise taxes for everyone.

"I'm certainly not going to suggest that we reassess all the properties and make the taxes go up. Not me, honey," said Angie Watkins, who bought a Henlopen Acres home with her husband, Chandler, for \$1.8 million in 2006. It is assessed at \$84,000, meaning it's worth about 22 times its assessed value.

"It's just a modest home by the ocean," she said, "but the land value would be the driving force in Henlopen Acres. The taxes are fair here."

W.G. Edmanson said he "vehemently campaigned" against reassessment while making a successful run last fall for Kent County Levy Court.

"Obviously, it would raise the property tax," Edmanson said. "Everyone knows in my county that property values have doubled or tripled."

Edmanson said he had never heard the widely used guideline that a third see a tax increase, a third see a tax decrease and a third see no change.

State Rep. Robert Valihura, R-Laurel Ridge, said he would support a study of the cost of a statewide reassessment, despite what the change would likely do to a home he bought in 2005 in Lewes' historic district. He paid \$915,000, or about 56 times its assessed value of \$16,200. He recently transferred ownership to his wife.

Valihura said he's skeptical that his fellow legislators would go along with state funding for a reassessment.

"There are too many folks in the General Assembly who believe it would open up a nightmare," he said.

To Josephine Jordan, who lives in the Berkshire condo development in Mill Creek, the question of fairness trumps politics. In her neighborhood, homes similar to hers have sold for between \$150,000 and \$200,000. Jordan's condo is assessed at \$71,800, the same as single-family homes elsewhere in the county that sell for \$250,000 to \$340,000.

"If their houses are worth more, they should pay more taxes," Jordan said. "It's not fair."

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ABOUT THIS REPORT

To obtain current market values, The News Journal analyzed more than 28,000 residential property sales since July 2005 across the state. The newspaper excluded sales less than \$10,000, eliminating sales that did not reflect true market value. Assessed values were analyzed without applying property-tax exemptions.

Based on the rule of thumb that a third of all properties' tax bills rise in an assessment, a third stay the same and a third fall, The News Journal calculated the approximate points at which tax bills would rise or fall for homeowners in each county. The effect of reassessment will depend on a property's assessment ratio, the result of dividing the market value by the current tax assessment.

Sussex County uses the term "appraised value" to describe the value given to a property during its 1974 reassessment. For consistency with the other counties, The News Journal considered this the property's assessed value.

Ratio ranges and how your taxes would fare ...

NEW CASTLE COUNTY

decrease: 3.4 and lower

same: 3.4 to 4.1

increase: 4.1 and up

KENT COUNTY

decrease: 2.5 and lower

same: 2.5 to 3.0

increase: 3.0 and up

SUSSEX COUNTY

decrease: 6.1 and lower

same: 6.1 to 8.0

increase: 8.0 and up

PHOTO

Purchase price: \$55,000 (August 2005)

Assessment: \$16,200 (29.5% of value)

Annual county taxes: \$32.54

Address: 2 Holly Leaf Estates, near Georgetown

Owners: Michael and Teresa Bauguess, of Conestoga, Pa.

PHOTO

Purchase price: \$2.6 million (May 2005)

Assessment: \$65,300 (2.5% of value)

Annual county taxes: \$131.16

Address: 12 Lake Ave., Rehoboth Beach

Owner: 7 Gables LLC

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Abstract (Document Summary)

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States, counties looking to reassess have wide range of options

The News Journal - Wilmington, Del.

Subjects: Litigation; State government; City managers; Homeowners; Tax revenues; Counties; Market value

Author: Chalmers, Mike

Date: Jul 1, 2007

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Section: NEWS

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The News Journal

Nationwide, local and state governments approach reassessment in ways ranging from completely ignoring the problem to updating assessments with every sale.

Delaware's outdated assessments may present financial and political challenges, but they're mild compared with those faced by Nassau County, N.Y., about four years ago.

The county, just east of New York City on Long Island, had been using 1938 property assessments until political leaders agreed to a comprehensive reassessment, said Matthew Smith, president of Standard Valuation Services, one of the appraisal firms contracted to do the reassessment.

"Assessment numbers were all over the deck," Smith said. "Communities change, and if you don't have a revaluation, you don't pick up on that."

Nassau County paid about \$35 million for the reassessment of its 450,000 parcels, or about \$75 per parcel. Smith said good reassessments cost between \$50 and \$100 per parcel, depending on whether the counties have maintained accurate records of property features and sale prices.

Indiana has been grappling with reassessment since the early 1990s, when Lake County homeowner Joe Gomeztagle began fighting a system that put more of the tax burden on new homes and less on older ones, regardless of their market value.

"As I started to question the legislators, they said it was politically unpopular to change it," Gomeztagle said. "They'd give me all sorts of excuses."

His lawsuit eventually led to the state Supreme Court's requirement that the state begin using market values as the basis for assessments. The state is now struggling to ensure consistency among the 1,100 county and township assessors who do the work.

California has chosen continual reassessment. There, properties are assessed a new value whenever they are sold, said Jacqueline Byers, director of research for the National Association of Counties. The advantage is that longtime homeowners are not suddenly faced with big tax increases, she said. But the downside is that next-door neighbors can end up paying very different tax bills for the same municipal services.

Some Del. towns have struck out on their own

Tired of waiting on the counties, some towns in Delaware have reassessed on their own. Town assessments affect only municipal taxes, not those levied by schools or counties.

In Seaford, officials tried to conduct an inexpensive reassessment in 2004 and got sued.

The city, which last reassessed in 1989, contracted with an inexperienced Dover man and agreed to give him half of whatever additional revenue his work generated in the first year, according to court records. He only raised the assessments on a third of the properties, ignored those that should have gotten a lower assessment and told city leaders that most property owners would simply pay the new bill without question, according to court papers.

Two property owners sued the city, and while a Chancery Court judge dismissed the case on other issues, Seaford agreed to conduct a proper comprehensive reassessment, which begins this month. City Manager Dolores Slatcher said the job will cost \$140,000 for 2,800 parcels.

"We'll knock on doors, we'll take a picture of the home," said Curt Riley, president of PTA/DELVAL in Rehoboth Beach, the appraisal firm hired for the job.

Riley, who said he's been doing appraisals and assessments for 30 years, said he'll confirm the number of bedrooms, bathrooms and other amenities, then look for recent sales of comparable homes to arrive at a current market value. It's similar to an appraisal done when a home goes on the market for sale.

Riley reassessed Bethany Beach's properties about five years ago. Until then, the town had been using Sussex County's 1974 figures. After reassessment, the town continued to collect the same amount of tax revenue, he said, but the rate dropped, from \$1.30 per \$100 in assessed value to about 8 or 9 cents per \$100.

He also recently finished revaluing property in Ocean View, which last reassessed in 1990. There, the town's total value almost tripled, from \$360 million to about \$1 billion.

Smyrna reassessed in 2005 to make sure the tax burden was spread equitably and to raise the town's total value, which can affect future borrowing needs, Town Manager David Hugg said. The job cost about \$230,000, and the town's value doubled to about \$600 million, he said.

If the state or counties reassessed, towns like Smyrna would not have to spend their own money, he said.

"The only way it's going to get done is the state's going to do it or mandate that the counties do it and then help pay for it," Hugg said. "It's expensive, it's time-consuming, but it doesn't get any cheaper."

Maryland's 'rolling' system a model for Del.?

Maryland's system of "rolling reassessments" is often cited as a model for Delaware. There, 300 assessors revalue a third of the state's 2.3 million properties every year, meaning each property gets a new assessment every three years. To avoid big spikes in assessments and taxes, the new value is phased in over three years, and homeowners' taxes cannot rise more than a few percentage points a year, depending on the county where they live.

Shari McCraw, who moved from New Castle to Elkton, Md., about five years ago, said she prefers Maryland's system.

"It makes more sense to do it on a consistent basis," McCraw said. "You know you're not out of line with other people."

Neighbor Julie Pennington, too, wouldn't want the pain of waiting decades for reassessment and the tax spike it could bring.

"I'd rather pay a little more each year than a couple thousand every 20 years," Pennington said. "You're not happy with it, but you can live with it."

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