IPTI Xtracts

Property Tax and Assessment News from Around the World

UNITED STATES – September 2020

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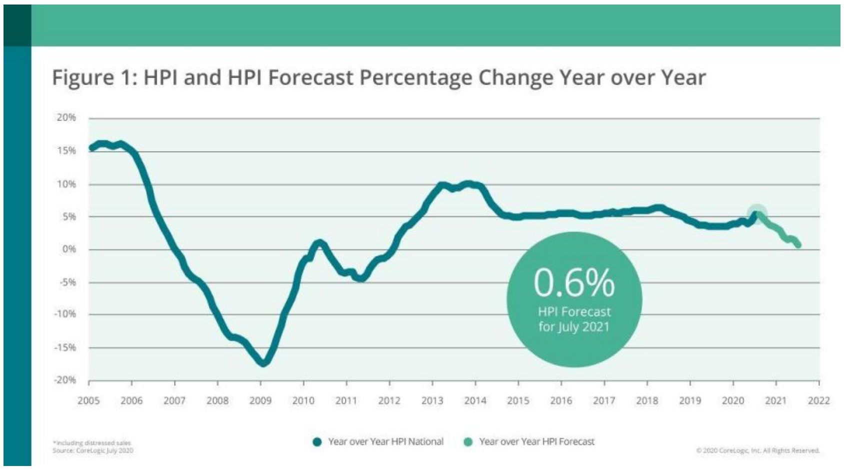
Strong and Resilient: CoreLogic Reports July U.S. Home Price Appreciation Reached its Highest Level Since 2018



® (NYSE: CLGX), a leading global property information, analytics and data-enabled solutions provider, today released the CoreLogic Home Price Index (HPI ™) and HPI Forecast ™ for July 2020. Nationally, home prices increased 5.5% in July 2020, compared with July 2019, and were up 1.2% compared to last month, when home prices increased 4.3%.

In July, annual home price growth accelerated to its fastest rate in nearly two years. The one-two punch of strong purchase demand — bolstered by falling mortgage rates, which dipped below 3% for the first time ever in July — and further constriction of for-sale inventory has driven upward pressure on home price appreciation. The national HPI Forecast shows annual home price growth slowing through July 2021, reflecting the anticipated elevated unemployment rates during the next year. This could lead to an increase of distressed-sale inventory as continued financial pressures leave some homeowners unable to make mortgage payments, especially as forbearance periods come to a close.

"Lower-priced homes are sought after and have had faster annual price growth than luxury homes," said Dr. Frank Nothaft, chief economist at CoreLogic. "First-time buyers and investors are actively seeking lower-priced homes, and that segment of the housing market is in particularly short supply."

"On an aggregated level, the housing economy remains rock solid despite the shock and awe of the pandemic. A long period of record-low mortgage rates has opened the flood gates for a refinancing boom that is likely to last for several years," said Frank Martell, president and CEO of CoreLogic. "In addition, after a momentary COVID-19-induced blip, purchase demand has picked up, driven by low rates and enthusiastic millennial and investor buyers. Spurred on by strong demand and record-low mortgage rates, we expect to see more home building in 2021 and beyond, which should help support a healthy housing market for years to come."

Despite the rapid acceleration of national home price growth, local markets continue to fluctuate. In particular, homebuying activity is becoming more pronounced in traditionally affordable suburban and rural areas that allow for more space as schools and work remain online. For example, home prices in Nassau and Suffolk counties on Long Island experienced an annual gain of 4.3% in July, as residents continue to migrate away from more densely populated areas like the New York-Jersey City-White Plains metro, which recorded only a 0.4% increase.

Looking forward, the HPI Forecast also reveals the disparity of home prices across metros. In markets like Las Vegas, where the local tourism economy and job market continue to struggle from the effects of the pandemic, home prices are expected to decline 7.8% by July 2021. Meanwhile, in San Diego, home prices are forecasted to increase 5.8% over the next 12 months as low inventory continues to push prices up.

The CoreLogic Market Risk Indicator (MRI), a monthly update of the overall health of housing markets across the country, predicts that metro areas with an elevated resurgence of COVID-19 cases — like Prescott, Arizona and Miami, Florida — are at the greatest risk (above 70%) of a decline in home prices over the next 12 months. Other metro areas with a high risk of price declines include Lake Charles, Louisiana; Huntington, West Virginia and Las Vegas.

CALIFORNIA

California Governor Newsom Voices Support of Property Tax Overhaul

Calling a property tax reform intended to spur billions in new education funding “long-overdue,” California Governor Gavin Newsom on Friday endorsed a ballot measure critics claim equates to a death knell for Main Street.

Joining a coalition of labor unions, educators and mayors, Newsom says it’s time to overhaul the state’s landmark 1978 voter-approved property tax reform, Proposition 13.

“It’s a fair, phased-in and long-overdue reform to state tax policy,” Newsom said in a statement. “It’s consistent with California’s progressive fiscal values, it will exempt small businesses and residential property owners, it will fund essential services such as public schools and public safety, and, most importantly, it will be decided by a vote of the people.”

The proponents are looking to stash a central tenet of Proposition 13 that caps property taxes at 1% of purchase price and a complimentary anti-inflation clause limiting annual increases from exceeding 2%.

Right now, if a property is sold, it is reassessed at current cash value, meaning properties on the same street can have vastly different taxable value depending on when they were last sold.

The coalition turned in over 1 million voter signatures and officially qualified the “Schools and Communities First” measure last May. The so-called split-roll measure will appear on the November ballot as Proposition 15.

While the measure was initially proposed prior to the pandemic, supporters are casting the reform as a much-needed means of budget relief for cash-strapped schools and local governments.

They claim a loophole in the decades-old tax code has allowed big businesses and commercial property owners to avoid paying their fair share of taxes, and that closing it will help pull municipalities out of the red. According to the proponents, the reform could produce up to $11.5 billion annually.

Seeking to make property taxes more predictable and stable, nearly 63% of voters in 1978 agreed to amend the state constitution and slow tax increases for both commercial and residential property. The idea was to brace owners from runaway tax bills caused by increased property values.

Securing Newsom's endorsement is a notable feat for the proponents, as former politicians like former Gov. Jerry Brown have referred to the property tax code as "sacred" and the "third rail" of state politics. Both the supporters and the business groups opposing the initiative have been lobbying hard for the governor's endorsement.

"Governor Newsom's endorsement of Prop. 15 represents another watershed moment in the push to close corporate tax loopholes so Californians can reclaim billions for schools and essential local services. This is a critical boost of momentum for the campaign as we head into the final stretch," said Alex Stack, Yes on 15 communications director.

Other supporters include various labor unions, education officials and a nonprofit run by Facebook CEO Mark Zuckerberg and his wife Priscilla Chan. The California Democratic Party has also endorsed the initiative and former Vice President Joe Biden offered his support for the overhaul last fall.

On the other side, business and anti-tax groups are warning the "tax hike" will force landlords to charge higher rents, which will ultimately be passed down to consumers.

"Today, the governor supported $11.5 billion in higher property taxes, which will mean increased costs for the same small and minority-owned businesses he's forced to close for the last six months. Now is not the time to support the largest property tax in California history and make our cost of living crisis even worse," the opposing campaign responded to Newsom's announcement.

Members of the opposition campaign include the California Business Roundtable, California Farm Bureau Federation, Latino Business Association and the Howard Jarvis Taxpayers Association.

Prop. 15 won't fix biggest California property tax problem

California's property tax system is a mess. Proposition 15, the "split roll" measure on the Nov. 3 ballot, attempts to fix it. Unfortunately, it only makes matters worse.

The solution is not to apply more Band-Aids and layer more complexity onto a broken system. And it certainly doesn't make sense to increase taxes on businesses when many can least afford it.

Rather, we should create a new system that taxes all properties in proportion to their values. Proposition 15 fails to do that. Voters should reject it.

The system dates to 1978, when voters, facing rapidly rising property taxes, approved landmark Proposition 13. Under those rules, the assessed value used for taxing properties can be increased no more than 2% annually. But when a property sells, the assessment is reset to the market value.

This has created tremendous inequity because long-term owners of all types of properties pay disproportionately less than those who have recently purchased. So, for example, neighbors with identical houses will often pay vastly different property taxes. Proposition 15 does nothing to address that disparity for residential properties.

Critics argue that there's a second inequity — that Proposition 13 has placed a burden on residential properties while owners of commercial and industrial properties reaped a windfall. That, they claim, is because taxes on residential properties are reset more frequently because they are sold more often.

It's that claimed disparity that Prop. 15 seeks to address by splitting the property tax rolls. Under the measure, most owners of commercial and industrial properties would pay higher taxes based on current market values. Owners of commercial and industrial properties with a combined value of $3 million or less would continue paying under the current system, as would owners of residential properties.

The higher taxes in many cases would be passed on to the tenants of those commercial and industrial property owners. In short, it's a tax on businesses, often small businesses, at a time when they can least afford it. To help offset some of the impact, Prop. 15 would reduce a separate tax on businesses by reducing the taxable value of each firm's equipment by $500,000 starting in 2024.

Nevertheless, the measure would increase the total property taxes collected statewide by an estimated $8 billion to $12.5 billion annually by 2025. Indeed, backers of Prop. 15 are pitching the measure as a way to raise more money for schools, even though schools would receive only about 40% of the new money available after administrative costs. The rest would go to cities, counties and special districts.

But the rationale for the measure is questionable.

A 2016 study by the nonpartisan Legislative Analyst's Office found that the assumption that residential properties statewide are sold more often and reassessed more frequently than commercial and industrial properties is wrong. Indeed, examining San Diego County, the analyst found that the opposite is true — that residential properties are reassessed less often.

Residential properties statewide bear a larger proportion of the total tax burden than they did before 1978, but there's another explanation for it than Prop. 13: more rapid residential development.

The analyst found that in 1979-80 homeowners statewide paid about 34% of property taxes. That share declined to a low of 32% in the mid-1980s, then increased to about 37% by 2015-16. The increase, the analyst concluded, may be due in part to faster growth in the number of residential properties than commercial and industrial properties.

In short, the big problem is not the disparity between residential and other types of property. It's the disparity between the taxes paid by long-time property owners and those who purchased recently — an inequity that's found for both residential and commercial properties.

That's the problem tax reformers should address. And they should be doing it in a way that's revenue neutral instead of trying to use reform as a vehicle to raise more taxes.

There are serious inequities in California's property tax system that should be addressed. But Prop. 15 misses the mark. Vote no.

Meditating on Prop. 13

Want to stop worrying so much about the future of California? Go and say a prayer at Howard Jarvis' house.

No historic plaques mark the five-bedroom home at 515 N. Crescent Heights Blvd., which sits between West Hollywood and Los Angeles' Miracle Mile. But this is where the famed anti-tax activist Jarvis lived, held meetings with Gov. Jerry Brown and other California players and organized Proposition 13, 1978's tax-limiting ballot initiative that still dominates California politics.

Another fall fight over Prop. 13 is under way. The November ballot's Proposition 15 proposes to lift Prop. 13 caps on taxing commercial properties, thus creating — depending on whom you ask — either billions of dollars for education or new burdens for businesses. So, recently, I went over to check on the historic house — and got an unexpected lesson about how California and its homes keep changing, even if its initiative politics never do.

Jarvis' undistinguished gray house is now Nechung Dharmapala, L.A.'s Tibetan Buddhist Center. The home has been painted a distinctive shade of orange associated with Buddhism. Above the front windows, two deer flank a wheel representing the dharma and a small stupa — a hemispheric structure representing the enlightened mind — rests outside the front door.

Inside, bedrooms are occupied by two monks, one an administrator, and the other the center's spiritual director. The large living room where Jarvis once conducted the angriest California politics of the 20th century has been turned into a 21st century sanctuary for lessons on the renunciation of ego, the development of compassion and the possibility of enlightenment for all beings.

At first, the home's political past and religious present seemed discordant, but the more I contemplated the place, the more I began to see the continuities and connections. Indeed, 515 N. Crescent Heights Blvd. has become a double monument to both the perils of revolutions and the paradoxes of protection.

Prop. 13 was a great victory of a conservative California revolution that promised protection — against rising taxes, especially the property taxes that raise the cost of homes and thus displace people. The paradox is that the protector Prop. 13 hasn't protected us from California's high taxes or extortionate housing prices.

Protection is also Nechung Dharmapala's reason for being. This Buddhist center is associated with Tibet's centuries-old Nechung Monastery, which is the headquarters of the state oracle of Tibet, who embodies the deity Pehar, also known as "The Protector of Religion."

Of course, the Protector Pehar couldn't stop Chinese communists from destroying Nechung Monastery and Tibet's other religious sites after the 1949 revolution. But therein lies the paradox. The communists' attacks on religion actually protected the faith. Tibetan Buddhists fled, spreading their teachings and establishing centers around the globe, eventually reaching Howard Jarvis' front door.

Jarvis' Tudor-style house was built in 1925, according to county records. Jarvis, a Utah native and Jack Mormon (he drank cheap vodka he carried in his briefcase), bought it in 1941 for $8,000. He stayed there for the rest of his life, through at least one renovation and three marriages, the last to Estelle Garcia.

During the 1970s and 1980s, Jarvis held court in a big comfortable chair, smoking a cigar and eating Estelle's corn soup, while distinguished visitors sat on simple sofas. The house was filled with energy and the conviction that a handful of people, without holding office, could upend the world.

"There were some curses, but no prayers," recalls the Jarvis aide Joel Fox, who also served for a time as president of the Howard Jarvis Taxpayers Association, which remains a force, leading this fall's campaign to fight Prop. 15, and thus protect Prop. 13.

Prop. 13 governs modern California because it controls the money: specifically, it requires a two-thirds popular vote to raise local taxes, and a two-thirds vote of the Legislature to raise state taxes. But most Californians associate it with its property tax provisions, which cap overall taxes and allow for the reassessment of properties at market value only when they are sold.

When Prop. 13 passed, Jarvis' 3,000-square-foot home, on a 5,900-square-foot-lot in a desirable part of L.A.'s Westside — which he'd bought nearly 40 years earlier — was assessed at less than $60,000. Its annual tax bills, based on that low base, would stay below $1,000, even as neighboring homeowners paid 10 times that. In 2005, the home assessed value for tax purposes was $75,854; in 2006, after Estelle died (Jarvis himself had passed back in 1986), it was reassessed at $1.25 million.

The Nechung Kuten, who is also the chief state oracle of Tibet, had visited Los Angeles in 2007 and 2009 and called for the establishment of a center where Tibetans, Mongolians and Westerners could study and practice Buddhism in a nonsectarian way. A donor stepped forward to fund a center, but finding the right place — with both a big gathering room and small bedrooms quiet enough for monks — was hard. Until a real estate agent took them to 515 N. Crescent Heights Blvd.

They bought the house in 2013 for $1.38 million. It took more than a year to redecorate the home in a Tibetan style, construct the shrine and install the Buddha statues. In 2014, the center opened, and the space is often full.

In Jarvis' old living room, resident teacher Geshe Wangchuk now presides. He became a monk at age 12 (with ordination at the Nechung Monastery re-established in Dharamsala, India) and arrived at Nechung L.A. in 2016. He's skilled not only in explaining Buddhist philosophy but also in the creation of sand mandalas and butter sculptures.

The team at Nechung L.A. had no idea of the house's history, and knew nothing of Jarvis. In a conversation with Nechung L.A.'s board secretary, Tenzin Thokme, I found myself starting to explain

Prop. 13, and then why Prop 15 is in the news. But my explanations were mostly just questions. Might Prop. 15 pull a few billion more dollars out of commercial property and into the schools? Or might the initiative's many exemptions be exploited by wealthy property owners? Might this measure at the very least make a symbolic strike against Prop. 13 — or will the whole exercise just reinforce Prop 13's power?

But if I understood Geshe Wangchuk, the recognition that I have more questions than answers is OK. Because uncertainty about what comes next, for me or for a proposition or for a house, might be the most powerful answer we ever get. Je Tsongkhapa taught it best 600 years ago: "If the entire object of grasping at certitude is dismantled, at that point your analysis of the view has culminated."

2020 Tax Planning: Consider Transfers of California Legacy Properties

Proposition 19, which will be on California's November 2020 ballot, dramatically changes the property tax rules exempting certain intra-family transfers and primary residence transactions for certain individuals such as those over age 55 or severely disabled.[1] This memo illustrates the impact of the proposed change for properties transferred between parents and children, which could significantly increase the cost to future generations of keeping legacy properties within the family.[2]
California property tax is assessed based on the property's purchase price and the cost of any improvements to the property. Unless a "change of ownership" occurs, the assessed value of real property increases by no more than 2% annually. Because average appreciation of California real property has far exceeded the 2% annual adjustment since the enactment of Proposition 13 in 1978, long time owners of California real estate generally enjoy a very low property tax burden relative to owners of newly acquired property. California currently provides two valuable exemptions from reassessment, which allow the continuation of this benefit after transfers of qualifying property interests between parents and children.[3] First, a transfer of parent's principal residence to a child is completely exempted from reassessment. The child succeeds to the parent's assessed value regardless of the value of the property or its assessed value at the time of transfer. Second, transfers of real property interests which are not the parent's primary residence (residential or commercial) are exempted from reassessment to the extent of $1 million of assessed value, regardless of the fair market value of the property.

Proposition 19 revises the Parent-to-Child Exemptions to limit (1) the types of transfers between parents and children that can be exempted from reassessment, and (2) the property tax benefit available. First, only a transfer of the parent's principal residence to the child where the property continues as the child's principal residence qualifies. Second, provided the transfer meets the principal residence requirements, the child's assessed value is then determined based on whether the property's value at the time of transfer is greater than the parent's assessed value by more than $1 million. If the value of the property at the time of the transfer exceeds the parent's assessed value by less than $1 million, then the child takes the parent's assessed value. If the value of the property at the time of the transfer exceeds the parent's assessed value by more than $1 million, then the child's assessed value is the current value of the property less $1 million. The following hypotheticals illustrate the consequences under current law versus Proposition 19

Hypothetical No. 1 – Prop 19 Increases Taxes 10x
Facts:

- Property #1 is Mom's principal residence: $10M FMV, $500,000 assessed value
- Property #2 is Mom's secondary residence: $5M FMV, $1M assessed value

- Mom's total assessed values that she pays property tax on is $1.5M
- Property tax rate is 1.25% (estimated)
- Mom's estimated total property taxes are $18,750
- Mom gives Property #1 and Property #2 to Child and claims exemption
- Child does not use either property as principal residence

Child's Assessed Values and Property Tax Consequences:

Current Law	**Proposition 19**
Property #1 assessed value $500,000 (exempt under R&T Code Section 63.1(a)(1)(A)) Property #2 assessed value $1M (exempt under R&T Code Section 63.1(a)(1)(B))	Properties #1 and #2 are both reassessed to their fair m value because of the requirement the property be both and Child's principal residence before and after transfe respectively
Assessed value is $1.5M, total, same as Mom's	**Assessed value is $15M**, total
Property tax is $18,750, total, same as Mom's	**Property tax is $187,500**, total

Hypothetical No. 2 – Prop 19 Increases Taxes 9.3x

Facts:

- Same facts as Hypothetical No. 1, except that Child maintains Property #1 as Child's principal residence after the transfer.

Child's Assessed Values and Property Tax Consequences:

Current Law – same result as Hypothetical No. 1	**Proposition 19**
Property #1 assessed value $500,000 (exempt under R&T Code Section 63.1(a)(1)(A)) Property #2 assessed value $1M (exempt under R&T Code Section 63.1(a)(1)(B))	Property #1 receives a limited exemption from reasses the fair market value, less $1M ($10M – $1M = $9M) If Property #1 FMV were instead $1M then the assesse would remain $500,000 and Child would have same pr tax as Mom for Property #1 Property #2 is reassessed to its fair market value becau requirement the property be both Mom and Child's pr residence
Assessed value is $1.5M, total, same as Mom's	**Assessed value is $14M**, total
Property tax is $18,750, total, same as Mom's	**Property tax is $175,000**, total

[1] Note that Prop 19, if passed, would expand the ability of certain homeowners, such as those over age 55 or severely disabled, to transfer the assessed value of their principal residence to a replacement residence and likely provide property tax savings to such homeowners. In particular, Prop 19 would allow such a transfer of assessed value to a replacement residence in <u>any</u> California county.

[2] R & T Code Section 63.1 provides the "Parent-to-Child" exemptions. The Parent-to-Child exemptions are for transfers "between" parents and children. The Parent-to-Child exemptions are also available for transfers between grandparents and grandchildren in certain circumstances. For purposes of this illustration, "parent" is the transferor and "child" is the transferee.

[3] Note that certain procedural requirements must be satisfied to benefit from these exemptions and that other types of exemptions exist other than the Parent-to-Child transfers.

The first big tax earthquake since Proposition 13 has occurred

In 1978, with the passage of Proposition 13, California experienced a political earthquake, setting the property tax rate at 1% of assessed valuation and imposing a two-thirds voter approval threshold for any future tax increases.

A major tremor also occurred last month with the State Court of Appeals ruling that initiative measures placed on the ballot by citizen groups are not bound to the two-thirds requirement and that a simple majority would suffice.

Governments have moaned for years that the two-thirds requirement is too high of a hurdle to reach; that it allows a minority of the voters to dictate to the majority of voters. Nevada County has had a few measures get to that magic 67% number: Nevada City's Road Improvement Tax, Grass Valley's Road Improvement Tax and the County Libraries Sales Tax Measure. Recent fire tax measures through individual fire districts, though, have met with defeat, oftentimes due to the high hurdle of getting two-thirds of taxpayers to agree to tax themselves.

The taxing door opened a bit in 2017 with the California Supreme Court's "Upland" decision. Its ruling concerned a citizen-initiated ballot measure on taxing marijuana in that Southern California city.

Writing the 5-2 majority opinion, Supreme Court Justice Cuéllar stated, "Multiple provisions of the state constitution explicitly constrain the power of local governments to raise taxes. But we will not lightly apply such restrictions on local governments to voter initiatives." The Justice implied that special purpose taxes placed before voters via signature-gathered initiatives may not be held to the two-thirds vote requirement for taxes sought by governments themselves.

With that, advocates of new taxes quickly turned to the initiative process, hoping that Cuéllar's opinion would allow them to succeed with only simple-majority votes. Several tests of the theory emerged from the 2018 elections, but trial court judges differed sharply on whether they should be validated.

Finally, the First District of the California Court of Appeals ruled (3-0) that a voter initiative (Proposition C) in San Francisco, which imposed a business tax to support homeless services, was legal since a simple majority of voters supported the measure. The Court sided with the city's argument that initiatives placed on the ballot by citizens only need a simple majority to pass while those placed by lawmakers need two-thirds to pass.

Laura Dougherty, a staff attorney with the Howard Jarvis Association (the parent organization of Proposition 13), said the organization "naturally" intends to appeal the case to the State Supreme Court.

"The voters who passed Proposition 13 never intended to create multiple voter approval margins, she said. "Constitutionally, two-thirds vote is necessary for any special tax."

In fact, school bond measures have only a 55% voter approval threshold due to the passage of Proposition 39 in 2000, which began the erosion of Proposition 13. Local school districts (Grass Valley, Nevada Union and Sierra College) have taken advantage of that lower figure to pass bond measures in Nevada County since the enactment of Proposition 39.

Now the battle lines are set for a tax showdown at the State Supreme Court in San Francisco. Since the court's Upland decision, the justices are now being asked to clarify their ruling and determine if citizen initiatives really only do need over 50 percent to be enacted. If so, you can be sure that local jurisdictions, including Nevada County, will rush to have citizen initiatives placed on the ballot to support fire suppression activity or homelessness.

It is interesting to deliberate on the fact that all other voter activities need a simple majority to be elected or pass ballot measures but tax measures allow a minority of voters to control the will of the majority. I'm not sure this concept passes muster or the smell test with the concept of true democracy.
California Landlords and Tenants - Be Ready for Prop 15

In 1978 California's Prop 13, which limited the opportunities to increase the assessed value of property, started a tax revolution that traversed the globe. Many families and educators blame Prop 13 for a steep decline in California's educational system by hamstringing the state's revenue base.

As most readers will know, Prop 13 required nearly all California properties to be reassessed at the purchase price or fair market value only upon a change of ownership. The ad valorem property tax was limited to no more than 1 percent of assessed value, with an annual adjustment equal to the rate of inflation or 2 percent, whichever is lower. This resulted in wildly different assessed values for comparable properties.

For example, an office building which had not been traded for 20 years would have a dramatically lower tax bill than an identical building next door that just sold. This "unequal" treatment was challenged on a number of constitutional grounds, but the California Supreme Court held that the will of the voters should prevail.

Split Tax Roll for Residential and Commercial Properties

The California Local Schools and Communities Funding Act of 2020 (Proposition 15 on the November 2020 ballot) would amend the State Constitution to undo Prop 13's protections for commercial and industrial properties, with certain exceptions, including exemptions for agricultural properties and small business owners.

Prop 15 would create a split tax roll, one for residential and other exempt properties and the other for commercial and industrial properties, with the latter assessed at full market value phased in beginning in the 2022/2023 tax year.

Properties would be reassessed every three years. Residential and other exempt property would retain the benefits of Prop 13. The Legislative Analysist's Office estimates the additional tax revenue generated by Prop 15 between $6.5 billion and $11.5 billion per year.

If passed, the new measure would level the tax burden for most commercial and industrial properties by valuing them at fair market whether or not the properties were recently sold or transferred. For properties that have not been reassessed in a long time, this could mean a huge jump in property taxes but would remove the cost disadvantage suffered by recently transferred properties.

Prop 15 Impact on Landlords and Tenants

Most California leases are structured as a gross lease, with the tenant paying real estate taxes over a base year, or on a triple net (NNN) basis, with the tenant paying all of the real estate taxes (or a proportionate share if occupying only a portion of a building). Property owners, who occupy their own properties, and tenants in California will see an increase in their occupancy costs if Prop 15 is passed.

Landlords often provide estimates of tax and expense pass-throughs based on the most recent year's taxes. Landlords should now caveat any estimate of taxes based on whether Prop 15 passes. Current tenants may be facing a big tax bill, which could be as large, in some cases, as the base rent.

Tenants looking for space now may wish to defer leasing decisions until after the results of the November election are known. Alternatively, tenants could limit considerations to recently reassessed buildings to minimize the risk of unanticipated tax increases.

FOOTNOTE

Prop 15 also exempts certain small businesses from personal property tax; for other businesses, it provides $500,000 exemption.

COLORADO

Repeal Gallagher

Only in Colorado could a ballot measure to freeze already-low residential property tax rates be met with suspicion.

For that we can thank the Gallagher Amendment, a bewildering formula baked into the state Constitution that dictates how the property tax burden in the state is split between residential property owners and everyone else.

Voters are being asked to repeal Gallagher via Amendment B on this year's ballot to "stop the bleeding" of a tax policy whose unintended consequences keep getting worse over time.

Passage depends on whether residential property owners can look past their own tax bills to see a bigger picture of what's at stake — a more equitable tax structure that spares small businesses from an even larger burden and relief for local government entities whose budgets are being squeezed.

We did no favors to proponents of the repeal with a recent headline, "A vote for higher taxes?" because it reinforced the tunnel-vision aspect of this debate. Gallagher has been good for homeowners — driving down tax rates on residential property — but lousy for businesses, farms, schools, hospitals, rural fire districts and anybody who expects government services to keep up with growth.

The Sentinel's Charles Ashby delved into the history of the Gallagher Amendment in Thursday's paper. Gallagher may have made sense in 1982, the year it passed, but proponents and opponents of the repeal agree that it's not working very well anymore. They disagree, however, on what to do about it.

Opponents, like Mesa County Commissioner Rose Pugliese and Michael Fields of the fiscally conservative group Colorado Rising Action, say it's irresponsible to repeal Gallagher without knowing exactly what tax policy will look like in the future.

Proponents say it stops bad policy in its tracks, allowing time for lawmakers to consider better approaches. Meantime, property tax rates are frozen in place and can't be raised without a vote of the people as required by the Taxpayer's Bill of Rights.

That's "no solace" to Pugliese, who said she's seen too many attempted end-arounds of TABOR to believe that a repeal won't spawn unintended consequences of its own.

How did we get here?

In 1982, the Gallagher Amendment established a formula that residential property owners are collectively responsible for 45% of the total amount of state property taxes paid, and nonresidential (commercial) property owners are responsible for 55%. The assessment rate for non-residential owners was fixed at 29%.

At that time, the assessment rate for residential property was 21%. Residential property in Colorado accounted for about 50 percent of all assessed property in Colorado, with commercial and other property accounting for the rest. But as the state's population has grown, the value of residential property has exploded. It now comprises nearly 80 percent of all property in the state. The only way to maintain the 45/55 split required by Gallagher has been to lower the assessment rate on residential property. It's down to 7.15% now, the third-lowest effective rate in the country.

Without a repeal, it would drop to 5.88%, inviting spurious reasoning that the repeal is a tax increase. Anyone who thinks in those terms should consider that a lower residential assessment rate means businesses will shoulder an increasing share of the property tax burden. The assessment rate for commercial property remains at 29%, so residential rates would go down to 5.88% and commercial rates stay the same at 29%. Instead of paying four times what residential property owners pay, businesses will pay five, undermining Colorado's reputation as a friendly place to do business.

Rural areas suffer disproportionately under Gallagher. We don't have the commercial tax base of the Front Range. Schools and special districts located on the Western Slope rely on property taxes to deliver services. School districts get back-filled by the state, but rural special districts rely almost exclusively on property tax revenues to fund their operations — libraries, fire and ambulance services, sewer, drainage, recreation and mosquito control to name a few.

Maintaining the 45/55 ratio means that revenue increases from higher residential property values are often mitigated by lower assessment rates, making it hard for these government entities to keep up with the cost of delivering services. Schools — increasingly dependent on the state for funding — lose local control. Hospitals are forced to close. Fire department have to cut corners, putting off hiring personnel or updating equipment.

This cannot be what Gallagher supporters originally had in mind. The state's tax policy should consist of three reasonable components: sales tax, income tax and property tax. One of the legs of this three-legged stool is broken. The only way to fix it is to repeal Gallagher. And the repeal does no harm. It just keeps things from getting worse.

That's why a broad cross-section of Republicans and Democrats support it. Nearly three-quarters (74%) of Democrats and Republicans in the Legislature supported putting Amendment B on the ballot. Club 20, Associated Governments of Northwest Colorado and the Grand Junction Area Chamber of Commerce have endorsed the repeal.

It is a win for schools, a win for small businesses, and a win for property owners whose property tax rates are frozen where they are, never to be raised without a vote of the people.

Consider what happens if Amendment B fails.

The state will be forced to backfund more than $490 million to local schools at a time when it's already planning to make steep cuts; businesses will keep shouldering a greater burden of property taxes and rural special districts will be forced to ask voters to approve tax hikes — or keep cutting services.

We know that this is mind-numbingly complicated, but the stakes are high. It's incumbent on the Legislature to fix it, but voters can repeal Gallagher now to keep the problem from getting worse.

Hundreds of property owners sue five county assessors for pandemic relief

Hundreds of property owners have sued five Colorado county assessors in recent weeks, arguing their property taxes should be reevaluated in light of the coronavirus pandemic.

Since late August, lawsuits have been filed against the assessors for Arapahoe, Denver, Eagle, Larimer and Weld counties.

The property owners are represented by Missouri attorney James P. Bick and Glen Gordon of Boulder's Hutchinson Black and Cook. Bick told BusinessDen the plaintiffs are all clients of Missouri-based Joseph C. Sansone Co., which bills itself as "a leading provider of property tax solutions to medium and large companies."

According to the lawsuits, the plaintiffs already appealed their property tax assessments to the Board of Equalization in the respective counties, which ruled against them.

Bick said county assessors determine property values every two years, and 2020 was not a year that new valuations were slated to be made.

The lawsuit, however, argues that state law allows for new assessments to be taken in an off year if "unusual conditions" exist.

"Both the decreased commercial activity overall due to the fear of the pandemic and the governmental restrictions on access and use of petitioners' properties has caused and continues to cause decreases in the actual value of such properties," the lawsuits state.

Denver Assessor Keith Erffmeyer did not respond to a request for comment.

There are 361 plaintiffs in the Denver lawsuit, 253 in the Arapahoe County lawsuit, and 78 plaintiffs in the Weld County lawsuit. There are three plaintiffs in the Eagle County lawsuit, and 97 plaintiffs representing 130 properties in the Larimer County lawsuit.

Below is part of the state law at the heart of the lawsuits. Phrasing in bold is highlighted in the lawsuits.

*"The provisions of subsection (10.2) of this section are not intended to prevent the assessor from taking into account, **in determining actual value for the years which intervene between changes in level of value**, any unusual conditions in or related to any real property which would result in an increase or decrease in actual value. If any real property has not been assessed at its correct level of value, **the assessor shall revalue such property for the intervening year** so that the actual value of such property*

will be its correct level of value; however, the assessor shall not revalue such property above or below its correct level of value except as necessary to reflect the increase or decrease in actual value attributable to an unusual condition.”

State law goes on to define “unusual conditions” as, among other things, “new regulations restricting or increasing the use of the land” or “any detrimental acts of nature.”

Amendment B puts spotlight on Gallagher’s mixed legacy of budget cuts, tax relief and inequality in Colorado

A new Colorado Sun analysis of state property tax data determined that Gallagher has exacerbated Colorado’s urban-rural divide, gashing public budgets in small communities that already struggle to afford essential services.

If you live in the Denver metro area, you can be forgiven if the panic surrounding the Gallagher Amendment sounds like utter nonsense.

“What tax cuts?” a homeowner may ask. Gallagher has saved Colorado residents $2.8 billion in property taxes last year alone, but in the metro area, homeowners continue to see their property tax bills rise.

Since voters added the Gallagher Amendment to the state constitution in 1982, the property-tax-limiting measure has carved out a complicated legacy, distributing its benefits — and its headaches — unevenly across the state.

It’s these disparities that made Gallagher one of Colorado’s most intractable political problems for decades. And the starkly different realities of urban and rural areas are part of why state lawmakers — after years of failing to agree on a replacement for Gallagher — are now asking voters to get rid of it entirely.

On the one hand, Gallagher has delivered a cumulative $35 billion in property tax cuts to residents across the state since it took effect, offering families at least some relief from the meteoric rise in Front Range housing costs.

On the other, a new Colorado Sun analysis of state property tax data determined that Gallagher has exacerbated Colorado’s urban-rural divide, gashing public budgets in small communities that already struggle to afford essential services, like fire protection, health care and education, even as the Front Range prospers. The constitutional amendment’s ripple effects have also trickled up to the state government, demanding ever more resources for schools, and exacerbating historic budget shortfalls that today threaten to set the state’s finances back to the darkest days of the Great Recession.

The analysis found that government services in more than half of Colorado’s 64 counties never recovered financially from the last recession, leaving them ill-equipped to deal with today’s economic downturn. Meanwhile, in places where housing is least affordable — and residents are pleading for the sort of financial relief Gallagher is supposed to provide — the cuts haven’t come close to offsetting the rapid rise in property values.

Gallagher's detractors say businesses and low-income residents have borne the brunt of the shifting tax burden as government agencies scramble to make ends meet. But to supporters — even if it's imperfect — Gallagher remains one of the few things pushing back against rising housing costs.

A repeal of the Gallagher amendment "takes a sledgehammer to affordable housing, in my opinion," said Dickey Lee Hullinghorst, the former Democratic House Speaker who opposes the measure. "It will indeed result in increased taxes for renters, because those property taxes just get passed on to them, when people are just trying to stay in their homes and keep from getting evicted. And for people who are struggling to pay their mortgages — it's terribly bad timing, if nothing else."

What that timing — amid an unprecedented pandemic and economic crisis — will mean for the November ballot measure to repeal Gallagher is not clear. Voters have been asked to ditch the amendment before, and it failed in a landslide. Critics of Gallagher are hoping that the legislature's overwhelming bipartisan support to put the repeal on the ballot this year will be enough to convince the public of the provision's downsides. But the reality is the vast majority of the state's population lives in the communities where housing prices are rising the fastest and public services are least affected.

"There isn't and there has not been a perfect solution," said Michael Valdez, the policy director for the Special District Association. His group represents an array of small government agencies, like fire districts and hospitals, that have been the hardest hit by the statewide cuts. "But," he added, "this is the best one we've come across so far."

How Gallagher works in Colorado and what it means for property taxes

When state lawmakers sent voters the Gallagher Amendment in 1982, proponents said it would do two things: Protect homeowners to some degree from rising property tax assessments, and ensure that businesses contribute their "fair share," by requiring that homes make up no more than 45% of the statewide property tax base.

In the 38 years since, it has arguably done just that, periodically slashing assessment rates for residents, while denying those same tax cuts to non-residential property, a broad category that includes commercial buildings, industrial sites and vacant land.

Gallagher splits Colorado's tax base into a 45% to 55% ratio between residential property and everything else. It can help to visualize it like a weighted scale, with residential property on one side, and nonresidential on the other. As long as residential values make up no more than 45% of the statewide property tax base, tax assessment rates stay the same. But if residential property values rise rapidly, or business properties lose value, as state forecasters are now projecting due to the pandemic, it can trigger a tax cut for individual homeowners and apartments.

Since 1982, the residential assessment rate has fallen to 7.15% from 21% of market value, with another large cut anticipated next year. The nonresidential assessment rate is unchanged at 29%, meaning businesses now pay more than four times the property tax rate of homeowners.

The formula for how local property taxes are calculated generally works like this:

- Take the fair market value multiplied by the assessment rate to find the assessed value of a property.
- Then, multiply the assessed value by your local mill levy and divide by 1,000. The 1 mill homeowners pay generates $1 in property taxes for each $1,000 in assessed value.

When Gallagher was first adopted, policymakers envisioned communities adjusting their mill levies up and down to compensate for any revenue loss it caused at the local level. But when the Taxpayer’s Bill of Rights, or TABOR, was adopted in 1992, local governments could no longer do so without voter approval.

And an increase in property taxes is notoriously unpopular at the ballot box. Despite a number of recent increases, the average local mill levy that Colorado residents pay is still lower today than it was when Gallagher was adopted.

“Gallagher, as it’s proposed, is designed to flow up and down,” Valdez, at the special districts association, said. “We’ve lost the up part.”

A statewide formula, a regional divide from Gallagher

The fundamental problem with Gallagher is that it applies a one-size-fits-all statewide formula to every community and taxpayer.

As a result, property taxes in small rural towns are increasingly dictated not by what’s happening in their local economy, but by property values along the Front Range.

An analysis by the nonpartisan Colorado Legislative Council illustrates the local disparities well. Since 2004, the property tax base of 10 counties has increased by more than 50%, largely thanks to oil and gas development. In five more, including Denver, it’s jumped by more than 25%. But in 24 counties the tax base has shrunk. And the Gallagher formula responds to where the bulk of the state’s money is: the Front Range, and oil and gas communities, like Weld County.

Property taxes make up the single largest source of revenue for local governments in Colorado. Still, in much of the state, Gallagher hasn’t posed much of a threat to local services. Although residential tax assessment rates have been cut by 66% since 1982, a Sun analysis of state property tax data found that per capita property tax collections have actually increased by 63% statewide when adjusted for inflation. In the Metro Denver economic region, they’ve gone up even more. In 2019 dollars, local governments now raise $2,061 in property taxes per capita, up 76% from $1,170 when Gallagher was passed.

But in parts of rural Colorado, it’s a different story. In 17 counties, per capita revenue has dropped from 1982 levels, none more so than the San Luis Valley area. In Saguache County, residents pay an average of 87 mills in property taxes, which is higher than the statewide average. But its local governments still only raised $993 per capita last year, or 46% less per person than they did in 1982.

There are two key reasons for this disparity. One, in places with sluggish housing markets, Gallagher sometimes cut taxes faster than home values are rising. And two, Gallagher was designed to shift the tax burden from residents to businesses. But some places don’t have enough business property or oil and gas within their borders to make up for cuts to residential taxes.

In the past decade, even more communities have been left behind. In 2019 dollars, property taxes across the state generate 10% more revenue per capita today than they did in 2009. But 39 of the state's 64 counties still haven't recovered to 2009 tax collection levels. That includes nine mountain counties that rely heavily on property tax dollars to fight wildfires. Clear Creek County, the site of one wildfire this summer, has seen its per capita tax collections drop 48% since 2009.

Colorado property taxes per capita (2019 dollars)

Since the Gallagher Amendment took effect in 1982, the state's property tax base has grown faster than Gallagher has cut assessment rates, leaving many local agencies with more revenue per person. But much of the state has fallen behind, particularly since the Great Recession.

Economic Region	1982	2009	2019	Change 1982 - 2019	Cha 2009 - 20
Colorado Springs	$856.37	$961.49	$914.45	7%	
Eastern	$1,455.49	$1,383.28	$1,432.13	-2%	
Metro Denver	$1,169.90	$1,781.76	$2,060.83	76%	1
Mountain	$2,371.64	$3,877.67	$3,327.40	40%	-1
Northern	$1,139.12	$1,758.47	$2,617.91	130%	4
Pueblo-Southern Mountains	$921.26	$1,028.29	$1,013.61	10%	
San Luis Valley	$1,317.44	$1,121.27	$1,115.63	-15%	
Southwest Mountain	$1,157.31	$2,186.22	$1,458.45	26%	-3
Western	$1,202.39	$2,254.32	$1,534.24	28%	-3
Statewide Total	$1,177.68	$1,754.39	$1,924.20	63%	1

All figures are adjusted for inflation and population, and are listed in 2019 dollars. Regions are as defined in Colorado Legislative Council economic forecasts.

Budget crises can even emerge in places that are otherwise thriving economically. In Grand County, near Rocky Mountain National Park, household income is higher than the statewide average and poverty is low. But because the tax base is predominantly residential, local agencies have struggled to maintain essential services. Despite increasing local taxes by 86% since 1982, the tax base still only generates 5% more revenue per capita than it did when Gallagher was introduced. Since 2009, per capita revenue has fallen by 34%, forcing the local fire district to dip heavily into its rainy day fund and loan out fire trucks to neighboring districts to avoid layoffs.

Rep. Matt Soper, a Republican from Delta who co-sponsored the repeal effort, says Gallagher is "wreaking havoc across the state."

"If you're a rural hospital or health clinic, especially in rural and low-income communities … there just isn't a commercial property tax base to fund these basic local health services," Soper, who sits on the board of directors at Delta County Memorial Hospital Board, said in a statement.

$35 billion in cuts — but for some, property taxes are still rising

When Gallagher was first introduced, property taxes were skyrocketing across the country. And Colorado was no exception to the backlash.

"Legislators and county commissioners were getting hundreds of people at their town hall meetings having a fit about the increases in their property taxes," said Hullinghorst, the former state House Speaker, who worked in local government at the time.

Gallagher's success in cutting residential taxes over the years has been remarkable. By one state analysis, Gallagher has saved residential taxpayers $35 billion since it took effect. Residential property taxes have fallen so dramatically that Colorado residents now pay an average effective tax rate of 0.56% of the market value of their home, or $1,680 annually on a $300,000 house. That's the sixth lowest in the country, according to an analysis by the conservative Tax Foundation.

Renters receive the benefits of Gallagher as well, said Drew Hamrick, the senior vice president of governmental affairs for the Apartment Association of Metro Denver, which is opposing the repeal effort.

"Anything that costs a property owner money, either very quickly or eventually gets built into the rent rate of the unit," Hamrick said. "Each and every dollar will become, over time, an increased rent cost."

Still, much like rural Colorado has borne the brunt of the budget cuts, Front Range homeowners arguably aren't getting their fair share of tax relief, either. Home values in metro Denver have more than doubled in the past decade. But under Gallagher's statewide formula, the homeowners whose tax bills are rising the fastest have received the same 10% rate cut in that period as other areas where property values are stagnant or rising more slowly.

Residential tax bases diverge

Since the Great Recession, Colorado's housing market has gone in two directions. When adjusted for inflation and population, the residential tax base has grown in four of the state's nine economic regions even after Gallagher's cuts. Five others have lost residential assessed value.

Region	Change in Residential Tax Base 1982 to 2019	Change in Residential Tax B 2009 to 2

Region	Change in Residential Tax Base 1982 to 2019	Change in Residential Tax B 2009 to 2(
Colorado Springs	194.7%	6
Eastern	114.0%	6
Metro Denver	86.6%	14
Mountain	117.2%	-25
Northern	53.1%	13
Pueblo-Southern Mountains	1.7%	-13
San Luis Valley	-10.3%	-10
Southwest Mountain	22.1%	-23
Western	81.2%	-25
Statewide Total	79.3%	-0

The change in residential tax base is calculated based on the change in residential assessed value over time, when adjusted for inflation and population growth. Regions are grouped as defined in Colorado Legislative Council economic forecasts.

For commercial business owners, Gallagher is "basically indefensible," says Tony Gagliardi, the Colorado state director of the National Federation of Independent Business.

While average mill levy rates are still lower than they were when Gallagher was adopted, they've been rising steadily since the recession, as communities grapple with mandated residential cuts. As a result, not only do businesses miss out on the tax relief homeowners receive, they're hit that much harder each time local taxes go up in response.

"Imagine being a small business owner in Fort Morgan and realizing you are getting a property tax increase while the owner of a second home in Aspen or Vail is getting an actual property tax cut," Gagliardi said in a statement.

Some aren't even convinced that a property tax cut is a good deal for the average resident. A study released in August by the Bell Policy Center, a progressive think tank that supports repealing Gallagher, found that as property tax collections have dropped, local governments have turned to sales taxes and fees, both of which are regressive, meaning they hit the poor and middle class much harder than the wealthy. Racial minorities in particular have been taxed disproportionately high by Colorado's regressive system, the center's analysis found.

"We've created kind of a perfect storm that's produced a much more regressive tax policy in Colorado," said Tyler Jaeckel, who co-wrote the report.

Notably, property taxes are regressive — though not as much as sales tax, according to the left-leaning Institute on Taxation and Economic Policy.

The next shoe typically falls on education

Gallagher's impact doesn't stop at the local level. Each time a property tax cut takes effect, the state is constitutionally required to step in and backfill any reductions in school funding.

And if another round of property tax cuts takes effect as anticipated, schools could require another $247 million backfill from the state at the same time as historic budget shortfalls.

That, coupled with a state spending cap established by TABOR, has led state policymakers to shift limited state dollars away from things like roads and higher education in order to replace the local funding lost to K-12 schools. This isn't entirely due to the interaction between Gallagher and TABOR, but today, the state provides 63% of K-12 funding, up from 43% before TABOR took effect.

Even some who oppose the repeal acknowledge that Gallagher has caused problems in parts of the state. Trouble is, they say, lawmakers haven't offered voters an alternative.

"There may be a better system out there," said Hamrick at the metro Denver apartment association. "But this approach of the first shoe falling and we'll see what the second shoe looks like later. We can't make any judgment about what the system looks like next."

Colorado Counties Inc., is neutral on the measure but opposed the legislative effort to put it on the ballot out of fear it will only make things worse for local governments. Today, the higher assessment rate on businesses is set in stone by the constitution. But if the measure passes, future lawmakers could pass a statute to lower it.

Valdez, the special districts advocate, acknowledges that future business tax cuts are possible, but he considers it unlikely.

"Overall, we believe that tax policy should be out of the constitution," he said. "Our perspective is that the legislature has a greater understanding for the impact for local governments, and they'll become the vanguard, if you will, to protect local governments."

Hullinghorst, though, is adamant that repealing Gallagher isn't the answer to funding woes at any level of government.

"I have all the sympathy in the world for them (state lawmakers). I served in 2009 when we were tanking, and it was tough times," she said. "The question is: Are you now going to shift that burden to individual residential property taxpayers? And my answer is no — and (if you do), you're probably going to have a revolt on your hands as soon as this starts hitting the fan."

If voters reject the measure, current projections anticipate an 18% cut for homeowners in 2021. That would more than offset a projected 10% rise in home values, providing some timely financial relief in an economic crisis.

For local governments, though, the future looks grim. And businesses — the financial backstop that Gallagher directs local officials to turn to as residential taxes fall — may not be there to lean on this time around.

At last forecast, commercial property values were expected to drop 20% in 2021.

FLORIDA

Exclude Branding and Similar Elements from Property Tax Valuation

A key to establishing realistic taxable values for commercial real estate is to exclude intangible qualities — such as a commercial brand — and value only the real estate. While this concept is a standard appraisal practice and imbedded in most states' tax codes, it continues to elude many tax appraisers who assess properties by business values that extend well beyond brick and mortar.

Assessment Methodology

In valuing hotels, apartment complexes, malls, shopping centers and other income-producing properties, appraisers most often apply the income approach, calculating value based on the real estate's revenue stream. To value hotel properties, for example, an appraiser would determine income flow using occupancy rates, expenses incurred in service delivery and maintenance costs.

Income approach calculations require an overall capitalization rate or the owner's annual return on their initial investment. The assessor divides a hotel's net income from occupied rooms by the total capitalization rate to determine the property's value.

The overall capitalization rate comes from two other calculations. One determines a mortgage capitalization rate based upon the mortgage equity ratio, placing a percentage value on the mortgage against the property. The appraiser also must determine an equity capitalization rate from the equity component of the real property. The assessor should then subtract personal property to obtain taxable value.

In most jurisdictions, the analysis would end there, subject to viewing similar properties for comparison. That is a problem when the value thus calculated also reflects intangible assets that are exempt from property tax. Intangibles commonly stem from a business operation.

For example, the hotel may rely on a popular brand that enables it to charge a higher room rate. That does not make the real property more valuable for tax purposes than an otherwise identical hotel without a recognized brand, but in most instances, tax assessors ignore branding and over-assess.

By excluding the brand valuation from the real estate, an appraiser can obtain a more accurate taxable value. This requires an analysis not only of the business operations in a particular taxing jurisdiction but an overall impact that may extend outside the taxing jurisdiction due to the brand's popularity. In other words, nationwide popularity may affect the intangible success of a local business operation.

Florida Court Intervenes

Florida's Fifth District Court of Appeals recently addressed this issue. In the case of Rick Singh, as Property Appraiser, vs. Walt Disney Parks and Resorts U.S. Inc. et al., Disney challenged the methodology of attributing higher values to its resorts for association with the Disney name.

On June 19, 2020, the court rendered an opinion that the tax appraiser's assessment conflicted with Florida law and professionally accepted appraisal practices because the assessor's derived value exceeded market value and erroneously included intangible property value.

The parties agreed that the income approach was the professionally accepted appraisal practice, as is the case with many income-producing properties. On Disney's behalf, an appraiser separated the intangible assets from the real property to establish a fair market value of the intangible assets, as if a hypothetical buyer were interested in purchasing the property. The approach provided an intangible asset value separate from the other assets the hypothetical buyer would purchase.

Disney also presented expert testimony on the real property's value using an income capitalization approach, which is applicable to properties where space is rented. This required some assumptions about how the property was used, distancing the retail components of the business operations from the real estate. Disney presented additional expert testimony examining the business value versus the value of the real property itself, such that the goodwill, customer base loyalty and the assembled workforce would be excluded from the real property's value.

The court felt that the tax assessor impermissibly included intangible business value in the assessment. The franchise value and management expenses needed to be deducted to eliminate the business value imposed on top of the real property value.

Other Property Types

Appraisers apply a similar analysis to other types of rented properties, such as malls and shopping centers. Typically, appraisers use the income approach, modified for the particular industry. A hotel operates differently from a shopping center, but the properties' square-foot values are similarly analyzed.

Malls and shopping centers present an additional consideration in that the business model grows increasingly obsolete as consumers shop more online. Thus, an analysis will be made based upon similar properties but will exclude intangible asset value for a property that has a highly popular retail chain operating within its walls. This would be a situation with a high-end department store anchoring a shopping center versus a discount department store.

The value of the real property itself is unchanged by the tenant's branding. Furthermore, two similarly situated shopping centers can support additional analysis using the market approach, which values the real property as if it were vacant and placed on the market for sale. This deviation from the income approach could be useful in establishing the parameter around which investors establish real property value.

A similar issue arises with apartments. Two similarly respected apartment complexes within reasonable proximity could be charging different rents because the brand associated with one property may be substantially more valuable than the brand on the other. This is similar to the resort or hotel analysis, but the differences in intangible asset values may be more subtle.

The trend today, and moving forward, is to place real estate assessments under a sharper microscope and identify intangible asset values incorrectly included in the real property valuations. There will be significant push back by taxing jurisdictions, and not only because the practice threatens to constrain overall tax revenues to that jurisdiction. Resistance will also stem from an incomplete understanding of the differences between the value of the real property versus the value of the business operation as an intangible factor affecting overall revenues for the property.

At the end of the day, commercial property value is unchanged by the brand associated with onsite business operations. However, for property tax purposes, in order to exclude brand value from the real property's taxable value, the assessor or appraiser must value the entire operation as a hypothetical sale, allot that value by components and then remove intangibles from the real estate value.

Higher taxes on the way? The pandemic hasn't stopped property values from rising

Property appraiser records show home values rose from the year before, meaning it could bring higher tax bills as the region wrangles with financial worries from the COVID-19 pandemic. The rise in values comes as new construction keeps thriving, with many new condos and apartments being built.

Palm Beach County's property values increased by an average of 5.9%, thanks in part to new construction. There has been a building boom in West Delray and West Boynton. Additionally, The Bristol, a new West Palm Beach condominium, added roughly $300 million in new construction to the tax rolls, Palm Beach County Property Appraiser Dorothy Jacks said.

New buildings also have helped Broward County's values rise by an average of 6.1%. The top three valued projects came from Fort Lauderdale. The city of West Park had the biggest jump at 10.2%.

Many businesses faced shutdowns during the pandemic, but construction still managed to carry on. As a result, COVID-19's true impact may not be felt by the construction industry for some time, and South Florida's property values could keep rising despite the coronavirus crisis.

"If the larger economy slows down, if we see any slowdown to our construction, it won't be this year or next year, it'll be a couple years as the investment that starts the construction process slows down," Jacks said.

In the coming weeks, cities will be signing off on their budgets, calculating how much money they'll collect from homeowners and commercial property owners so they can pay for everything from police services to park maintenance to street repairs.

Many South Florida cities have favored keeping their property tax rates the same while the values have risen.

In Boca Raton, the city's operating tax rate remains even at 3.68%. However, with average assessed values for single-family homeowners rising from $519,000 to $542,000, taxpayers will pay slightly more this year.

The city also is adding an additional $1.99 in sanitation fees for single-family residences. Like many cities, Boca Raton is forced to make budget cuts due to COVID-19. Among other things, Boca will decrease expenses for travel, recreational/cultural programs, and vehicles, a city official said.

While Delray Beach's operating tax rate decreased slightly from 6.86% to 6.85%, the city's average assessed value for single-family homes increased by nearly 5 percent. Delray also is facing financial shortfalls due to COVID-19, leading to proposed cuts in public works and neighborhood and community services, among other things.

Boynton Beach's tax rate is staying the same at 7.9% while average assessed values for single-family homes increased from $159,000 to $167,000. City Manager Lori LaVerriere said Boynton Beach is down about $1.2 million from state-shared revenue and sales tax revenue. The city plans on dipping into its designated fund balance to help fill the hole, allowing them to avoid any service cuts.

"We fared well considering some of our other neighbors are getting hit with $10 million reductions in losses and looking at laying people off," LaVerriere said. "We're not in that position, fortunately."

The majority of Broward's 31 cities also have opted to keep their tax rates the same. Three of them — Oakland Park, Southwest Ranches and Wilton Manors — are proposing slightly lower tax rates.

How much the new coronavirus will continue to strain finances remains unknown, especially if property owners, including landlords, can't pay their bills. "The economic fallout from this pandemic will unfold over the next several months — and even years," Oakland Park City Manager David Hebert warned.

Oakland Park has started seeking ways to save: All city staff's hours have been reduced by 10%, excluding firefighters as well as some other exceptions. There also will be some hiring and overtime freezes, a reassignment of staff, as well as the city's asking vendors to reduce their rates.

Park programs in Tamarac will take a 40% financial hit because of the pandemic, the city manager warned there. People are driving less during the pandemic, so that'll mean less money for the city from its portion of a regional gas tax. To save money, the city instituted a travel ban and postponed replacing any cars, with the exception of fire department vehicles.

Facing fees

Tax rates are just one piece of the overall bill faced by South Florida homeowners. Everyone with property must pay school district taxes, fees to the hospital districts and water management districts, and the Children's Services Councils. In Broward, the children's council will add 48 cents of every $1,000 of taxable value to the bill.

Cities also may levy fees for fire service, which ranges from $129 in Lauderdale-by-the-Sea to $629 in Southwest Ranches. Weston will raise its fire fees from $472 to $549.

A handful of cities have tacked on garbage and stormwater fees to the property tax bills, too.

In addition to the operational tax rate, the majority of Broward's cities add to the bill any ongoing voter-approved debt to pay for projects. The amount of debt gets added to the city's operating tax rate to compute a homeowner's final city tax bill.

That ranges from the lower end of 22 cents for every $1,000 of taxable value in Fort Lauderdale, which is used for the construction of new police headquarters and new fire stations and improvements to parks and recreation facilities. The length of the debt service varies depending on when the bonds were issued and the last one in Fort Lauderdale will end in 2049.

The highest debt among Broward's cities is in Lauderhill, which collects $1.80 for every $1,000 of taxable value to pay for improvements to parks and roads.

In Wilton Manors, the debt that is added to the tax bills is almost 28 cents for every $1,000 of taxable value. It comes from a 2006 bond to construct the City Hall and police station, and will be paid off in 2028.

There will be some relief with some discounts available.

Cuts to the total bill can be applied for homestead exemptions, disability, widow and senior exemptions, among others. Those who pay quickly also get a discount as high as 4%. Taxes must be paid by March 31.

ILLINOIS

An Unpopular Fix for Chicago's COVID Budget Problem

In a moment when people are spending and earning less, we're taxing all the wrong things.

When Lori Lightfoot declared that Chicago will face a $1.2 billion budget deficit next year due to the "catastrophic collapse" of the economy, she wasn't the only the mayor making that announcement. COVID-19 is wreaking havoc on municipal budgets all over the country. Chicago, though, is in worse shape than most cities, because of the sources from which we collect revenue.

A recent New York Times story ranked 41 cities based on how likely they are to suffer severe revenue shortfalls as a result of COVID-19. Using projections from National Tax Journal, Chicago ranked 11th, with an estimated decline of 11 percent. In last place (which is really first place) was Boston, with 4 percent.

"What matters more in this pandemic moment is how a city generates money: Those highly dependent on tourism, on direct state aid or on volatile sales taxes will hurt the most," the story read. "Cities like Boston, which rely heavily on the most stable revenue, property taxes, are in the strongest position – for now."

The reason? Boston derives 71 percent of its revenue from property taxes. That's a necessity in Massachusetts, which does not allow local governments to set sales tax rates, or levy income taxes. Everyone in Boston pays 6.25 percent sales tax, compared to 10.25 percent in Chicago. On the other hand, Boston's residential property tax rate is 10.56 percent, and its commercial and industrial property tax rate is 24.92 percent. Compare that to 6.89 percent in Chicago. (Boston property is also worth more than Chicago property: according to Zillow, the average Boston home sells for $629,000, while the average Chicago home sells for $329,000.)

According to Chicago's 2020 budget overview, the city took in $1.51 billion in property taxes while spending $11.65 billion, meaning property taxes funded 12.9 percent of the budget. A larger source of revenue was "Local Tax," which included a public utility tax, sales tax, transaction taxes, and transportation taxes.

Massachusetts is sometimes derided as "Taxachusetts," but Bostonians' willingness to pay higher property taxes in exchange for lower sales taxes has turned out to be a smart move in the age of COVID. So far, property values have been stable, while sales and incomes are declining, due to business slowdowns during the pandemic. But property taxes have always been recognized as the most stable source of local revenue.

"Stability and reliability have long been thought of as requirements for creating a sound local tax system," wrote the authors of "The Property Tax: Its Role and Significance in Funding State and Local Government Service," a study by the George Washington Institute of Public Policy. "Local governments rely on the tax because, unlike all other local option taxes, the base of the tax cannot, for all intents and purposes, be moved. The revenue from such a 'captive' tax base can be relied upon to a greater extent than either wage or sales taxes – both of which have highly mobile tax bases."

Despite its virtues, Lightfoot declared that a property tax increase "is at the very bottom of our list of options" for balancing the city's budget. If the property tax is such an effective tool for municipal funding, why don't municipalities use it more?

Because voters hate property taxes. In 2005, Gallup conducted a poll on "The Least-Fair Tax." The property tax was the landslide winner, at 42 percent, despite arguments that property taxes are less regressive than sales or income taxes. University of Chicago economist Milton Friedman, who hated property taxes less than most other taxes, theorized it was because "[i]t's the only tax left on the books for which people have to write a big check." Property taxes are paid in big chunks, twice a year, while income taxes are deducted a few dollars at a time from weekly paychecks, and sales taxes are paid a few pennies at a time, with every purchase.
Instead of a property tax increase, Lightfoot called for a new casino in Chicago. That's not the most sensible solution: as the Times reported, "[i]n Detroit, one-fifth of the municipal budget typically comes from casino revenue. And casinos have just reopened, at reduced capacity." Detroit ranks 4th among cities whose budgets are vulnerable to the COVID-19 recession.

What's most sensible, though, is not always what's politically possible, as elected officials have learned over and over again when they've tried to raise property taxes.

Recent Court Decisions on Assessments Highlight Lesser Known Property Tax Provisions

The Illinois Appellate Court recently issued two decisions involving property tax assessments, each being noteworthy for a different reason. One is noteworthy because it focuses on the longstanding legal principle that a party challenging the assessed valuation of a property must follow only the administrative procedures outlined in the Property Tax Code. The other is significant because it provides guidance on the newer, and relatively novel, method prescribed by the Property Tax Code for valuing supportive living facilities, a property type that is increasingly a significant portion of many school districts' property tax bases.

In *Jorgensen v. Berrios*, the appellate court considered a lawsuit filed against the Cook County Assessor for allegedly failing to implement a historic residence assessment freeze. Under Article 10 of the Property Tax Code (105 ILCS 200/10-40 et seq.), properties certified as historic residences are entitled to a property tax assessment freeze that eliminates from taxation the value added by any rehabilitation to the property for a period of eight years after the rehabilitation occurs. After the eight-year freeze, there is a four-year period in which the assessment is gradually increased to the full amount. Plaintiffs filed a complaint in the Circuit Court seeking an injunction requiring the Cook County Assessor to lower the property's assessment, which was dismissed because the procedures outlined in the Property Tax Code for challenging an assessment had not been followed. Those procedures include filing an appeal with the local assessor and then with the board of review, before taking any further appeal to the Property Tax Appeal Board or the Circuit Court.

The Appellate Court upheld the dismissal of plaintiffs' complaint based on plaintiffs' failure to exhaust their administrative remedies. Illinois courts generally do not entertain lawsuits seeking remedies not provided for in the Property Tax Code because the Code provides a comprehensive system that regulates the assessment and collection of property taxes. The only exceptions to this rule are when the tax is unauthorized by law or levied on an exempt property. In this case, plaintiffs attempted to argue that the assessments were so grossly excessive that they were the product of fraud and therefore unauthorized by law. The Appellate Court, however, found a sufficient basis for the assessments and reaffirmed the doctrine of exhaustion of administrative remedies. This is a positive outcome for taxing agencies, which benefit from being able to rely on the predictability of assessment challenges being brought only as prescribed in the Property Tax Code.

In *Manteno Community Unit School District No. 5 v. PTAB*, the Appellate Court overturned a recent PTAB decision that reduced the assessment on a supportive living facility. Since 2007, the Property Tax Code has provided a special method of valuing supportive living facilities for tax purposes. Section 10-390 of the Code requires the valuation to be based on the income capitalization approach to value. It goes on to require that the portion of Medicaid payments not be attributed to the revenue generated by the real estate. Likewise, the portion of revenue for services generated by residents not eligible for Medicaid must also be excluded from the calculation of the real estate value. This becomes important since Medicaid caps the amount a supportive living facility can charge for rent and for services, but the same caps do not apply to private-pay residents.

The decision goes into great detail in analyzing the method of valuing supportive living facilities, but the crux of the decision is that PTAB erred in reducing the assessment based on the property owner's bookkeeping practice of assuming all residents paid only the rent allowed by Medicaid regardless of whether the resident was relying on Medicaid or paying out-of-pocket. The Court found that it was appropriate to use the limited amount of rent paid by Medicaid only for the portion of the property occupied by residents utilizing Medicaid. For the remainder of the private-pay residents, the market rent charged by similar facilities to non-Medicaid residents is the revenue to be used in the income capitalization approach. The net result of this decision is positive for school districts since it prevents the undervaluation of a property type that is becoming more commonly found as one form of senior-living arrangement.

KENTUCKY

Louisville's chamber of commerce throws its support behind JCPS property tax increase

Greater Louisville Inc., the metro region's chamber of commerce, threw its support Monday behind the proposed Jefferson County Public Schools property tax increase.

JCPS is seeking a 7-cent property tax hike that would roughly equal an extra $70 a year for a $100,000 home.

The Jefferson County Board of Education approved the tax increase in May, with leaders saying that the roughly $51 million in new revenue would largely go to building and renovating schools, and to supporting the district's most disadvantaged students.

"GLI recognizes the struggles our business community finds itself in with the uncertainty of the global pandemic," Sarah Davasher-Wisdom, president and CEO of GLI, said Monday in a statement. "We join JCPS in this pursuit to advance equity and ensure proper investments are being made to close the student achievement gap."

Kentucky school boards are allowed under state law to raise property taxes enough to boost revenue by 4% without being subject to a recall.

The JCPS proposal would increase district revenue by over 9%, and a "No JCPS Tax Hike" group that formed in the spring eventually gathered more than 38,000 signatures on a petition to place the tax increase as a question on November ballots.

But after an outside analysis found thousands of questionable or duplicate signatures, the JCPS board voted Aug. 18 to authorize superintendent Marty Pollio to move forward with an appeal of the petition's certification in Jefferson Circuit Court.

The court battle is ongoing, but Jefferson County voters will in any case see the tax question on Nov. 3, as ballots had to be printed by last Friday and then mailed out starting Tuesday.

Whether any votes on that tax question end up counting or not will hinge on the outcome of the court case, which has another hearing set for Oct. 9.

Over nearly a year, GLI said it had "convened multiple informational meetings with its membership to discuss increased revenue proposals aimed at supporting the school district’s top investment priorities for students."

"Recently, GLI convened its Board of Directors and a majority of business leaders voiced support for the proposed ballot initiative and expressed the need for resources to be prioritized based on equity and student success," a news release stated.

Pollio and other JCPS leaders have noted in past discussions that the district's current property tax rate, 73.6 cents for $100 of assessed value, is among the lowest in the area.

An increase to 80.6 cents would bring it closer to peer districts, like Fayette County Public Schools, that serve large groups of disadvantaged students living in poverty.

To support a new student assignment plan that would allow West End students to go to school closer to home, JCPS leaders have said they need millions to both build three new schools in the West End and provide resources for the students who attend them.

"We are at a crossroads in this community. We are going to have to make a decision," Pollio said last week during a Louisville Forum discussion on the tax increase. "In the next decade, we will be closing and condemning schools in the middle of the year because our community is not willing to fund those."

Theresa Camoriano, leader of the No JCPS Tax Hike group, and other opponents have said JCPS is a top-heavy organization that should better manage its existing funds and not raise taxes during a pandemic.

Camoriano said during last week's Louisville Forum event that district leaders have not used additional money "wisely for many, many years."

"They've let buildings go to pot. They haven't maintained their buildings," Camoriano said. "They haven't done what they should be doing in terms of instruction or construction."

Both JCPS and the No JCPS Tax Hike group have begun raising money to promote their beliefs regarding the tax increase.

JCPS signed a $575,000 contract with a Danville-based public relations firm to pitch the increase to voters.

But Pollio noted that a nonprofit group, dubbed "Yes 4 JCPS," has been set up to cover the costs associated with the push for the tax increase.

Yes 4 JCPS, registered as a 501(c)(4) advocacy group, is led by a 12-member steering committee made up of business, community and education leaders in Louisville.

Davasher-Wisdom said in her statement that GLI is urging the JCPS board and administration "to dedicate resources for deferred maintenance of facilities, new construction of schools, investments in career and technical education, and additional support for vulnerable student populations."

"All of these priorities must be accompanied by cost-saving measures and increased efficiencies in order to maximize every penny for student needs," Davasher-Wisdom said. "GLI looks forward to working with JCPS and sharing how the district can pursue these investment priorities."

NEW YORK

For those hurting before COVID, property tax relief can’t come soon enough

J. Crew, JC Penney, Pier 1 Imports, GNC, Brooks Brothers, Lord and Taylor, Gold’s Gym and 24 Hour Fitness are just some of the household names that have filed for bankruptcy since the start of Coronavirus. Some of these companies hope to reemerge after financial restructuring, but rarely is a bankruptcy filing indicative of a thriving future. In fact, in many of the cases, COVID expedited the inevitable. Whether these companies occupy buildings as tenants or own properties themselves, their need for property tax relief predates COVID’s arrival in the United States. In order for these properties to survive, their property tax cuts need to be swift and substantial.

Bankruptcies do not happen overnight. To paraphrase Hemingway, companies go bankrupt two ways: Gradually, then suddenly. Many companies, primarily those in the retail sector, could not withstand the effects of COVID because their decline began well in advance of the pandemic.

Landlords in different property sectors have been forced to agree to deferrals and rent reductions to different degrees. Owners of retail and hospitality properties are bracing for a market correction that will entirely redefine property values. Many of these properties are teetering on the brink of survival and to avoid closing its doors entirely it will be imperative that the assessor adjust values for property tax purposes.

The urgency with which retail and hospitality must receive property tax relief cannot be understated. If their tax burden is not adjusted, the domino effect of lost sales tax revenue, job losses, and missed tax payments will provide collateral damage to an already reeling economy.

COVID's contribution to the decimation of certain market sectors is not just limited to those companies competing against Amazon. It includes restaurants that are spending thousands of dollars to reposition indoor seating. Top of the line venues purpose-built to encourage social interaction are now scrambling to reconfigure six-foot spacings. Retailers who pivoted and found a way to provide personal "experiential" settings are working to undo these efforts and limit customer interactions. And fitness concepts, once the antidote to failing centers, are now unsure if there is a place for them at all in a post-COVID world.

For those that survive, there are immediate and ongoing costs. These are not choices, but business necessities. The impact on this increase in the cost of doing business will have an astounding impact on values. If a restaurant spends more money, but does less business, they will be seeking to pay less rent in order to remain solvent. Similarly, if a retailer needs to space out their store, allow less shoppers, and generate lower sales, they must cut costs in their rent payments. Alternatively, some tenants are looking for landlords to pay the costs of adapting to the COVID environment. Whether it's the landlord spending more money or the tenant paying less, the bottom line is diminished cash flow and lower property values.

In New York, the courts have explicitly stated their preference of valuing commercial properties by an income approach to value. This approach has four major components, all of which have been dramatically impacted by COVID: Income, vacancy rate, expenses, and capitalization rate.

Total income collected is down. Even if rental agreements were signed at high amounts, rent collection levels are down across all sectors. Vacancies were already increasing in many sectors and are now skyrocketing. Even in an optimistic scenario, we are likely to see vacancies at all-time highs.

Since March, appropriate budgeting for expenses has become an even more difficult task. Between PPE equipment, sanitizing products, plexiglass dividers, more frequent cleanings, and physical alterations to existing space, properties are faced with alarming expense inflation. The scary part is that with operations at a complete standstill from March to June (and some much longer), 2020 expenses will not show the true amount of costs for an entire year. The upkeep and adjustment required to these new standards stands to be even higher in 2021.

The last component is capitalization rate. While market cap rates can always vary, one thing is certain—there is more investment risk in a post-COVID world than before, and cap rates will adjust up to reflect that risk.

The law mirrors the marketplace in this instance and property assessments must be lowered. While it would be prudent for assessors to make these adjustments proactively and avoid additional economic damage, that is not always an easy task. Therefore, it becomes imperative that each owner present a complete picture of its business both before and after COVID, in order to show that not only has it been impacted, but that it is part of an overall market correction that was already occurring and will undoubtedly endure beyond COVID, and for that reason should have its tax burden reduced accordingly.

PENNSYLVANIA

Philly postpones property reassessment and will leave values the same until 2023 due to coronavirus

Philadelphia will not reassess properties next year due to operational limitations amid the coronavirus pandemic, city officials announced Wednesday.

That means that most property owners will keep their current assessments — and property tax bills, if the city's tax rate remains the same.

Citywide reassessments completed in 2018 and 2019 sparked complaints from residents and criticism from City Council after thousands of property owners received substantial tax hikes as a result.

The city did not complete a revaluation this year; officials said they were instead focused on implementing a long-awaited technology project known as Computer Assisted Mass Appraisal (CAMA). Training on that system has been delayed due to the pandemic, city officials said Wednesday. As employees of the Office of Property Assessment worked remotely, other work necessary for a revaluation was also delayed.

"I'm certain that opting to leave property values at current levels is the prudent action in light of a whole host of factors," Mayor Jim Kenney said. "It will allow operations that are currently delayed to catch up, and will allow the OPA to ready the new CAMA system for a full reassessment next year — by which point I sincerely hope we will be past the effects of COVID-19."

Properties that have new construction, expiring abatements, renovations, subdivisions, or consolidations — or errors in prior assessments — will still be reassessed. Those property owners will receive notice of their assessments by March 31, and their new values will take effect for taxes in 2022.

While the city's property tax rate has not changed in the last few years, some property owners have had significant tax increases due to changing assessments. Kenney proposed a property tax hike in May to help fund schools. The proposal was met with resistance from City Council, and Kenney withdrew it after additional state funding was made available for the School District.

The median value of a single-family home in the city increased 10.5% in 2019, resulting in tax hikes for hundreds of thousands of homeowners. The median value climbed by an additional 3.1% under the 2020 assessments. An independent audit commissioned by City Council and released last year found flaws in the city's assessing practices. The Kenney administration defended its practices but hired a consultant to recommend improvements.

Kenney said the next citywide reassessment will be completed in 2022 and will take effect for tax bills in 2023.

"We owe it to taxpayers to ensure we are making property assessments as accurate as possible," Kenney said, "and this decision will help OPA accomplish that."

TENNESSEE

Nashville could run out of cash due to confusion around property tax referendum, finance director says

Nashville could run dangerously low or "run out of cash altogether" just from the public confusion surrounding a referendum effort to repeal the city's property tax increase, warns Metro Finance Director Kevin Crumbo.

Crumbo's remarks were made to Metro Council's budget committee Monday, hours after Mayor John Cooper and other city leadership went on the offense against a petition they say, if successful, would "cripple" the city and gut essential services.

For months the administration has spoken on the need for the city's new 34% property tax increase, which a group is pushing to roll back. But this week is the first time Cooper has detailed the impacts the referendum would have, as it would leave the city with a $332 million budget deficit.

But beyond the likely cuts to police and fire personnel and massive readjustments to the school district's operations, the confusion surrounding property taxes could debilitate city finances, Crumbo said.

"Regardless of the arguments, be they legal, financial, what have you about the referendum that we've heard so far, what strikes me the most is that we can have a lengthy period here of confusion about what is actually going to happen," he said.

Property tax bills are mailed the first week of October each year and are due by the end of February. Typically, about one-third of people pay their bill in December, according to the city.

If the city were to hold a special election Dec. 5, which the Metro Election Commission has not yet determined, the public could decide to hold off on payments until January or February.

"I've become very concerned that taxpayers will not pay relative to historical patterns. ... That's very problematic for us," Crumbo said, saying it would put the city in a "very dangerous" cash position.

Crumbo on Monday doubled down on his decision not to adjust the city's tax rate by changing the city's overall revenue forecasting when asked if he might do so by At-Large council member Steve Glover.

"I have no intention to do that," he said, adding he remains steadfast in his belief that it would be irresponsible to diminish the city's fiscal position until there is more evidence the economy is stable.

Budget hit would come midyear

The Metro Election Commission is expected to meet this week to determine whether the city will hold a special election. The petition filed last month by a group led by attorney Jim Roberts with the backing of Americans for Prosperity — founded by the conservative donor network of the billionaire Koch brothers — was verified on Friday.

The Cooper administration has not yet said if it will challenge the petition in court.

But if placed on the ballot and approved by voters, it would mean the city will need to address a $332 million shortfall in a $2.4 billion budget with just six months left in the fiscal year.

"We're talking about an enormous impact — in fact, a staggering impact — on the operations of the city in order to accomplish that," Crumbo said.

The finance director said he's already preparing to find a way for Metro to "soften" the impact the city would face if the tax increase is repealed or cash flow is severely impacted.

"I'm also looking at what we need to start trimming back now in order to make sure we will have cash to weather any big changes," Crumbo said. "I have not reached any conclusions as of yet."

If faced with a shortfall, Metro would need a midyear corrective action plan for its second year in a row or face yet another risk of the state stepping in and taking financial control.

State Comptroller Justin Wilson is expected to make remarks related to the referendum ahead of Tuesday's council meeting, a deja vu moment for council members as Wilson made a visit to the Metro Courthouse last November, urging council members to balance the city's budget and get its finances in order.

Last year the city had a nearly $42 million budget gap after Cooper, after taking office, reversed on a private parking deal and the sale of a downtown district energy system — items planned for in a previous budget put together by former Mayor David Briley.

To meet the shortfall, the city relied on funding from payment in lieu of taxes deals with the Music City Center and Metro Water Services, refinancing of Metro Development and Housing Agency payments and funds from the Convention & Visitors Corp., as well as a federal program for reimbursement from the Davidson County Sheriff's Office and the U.S. Marshals Service.

The task to meet a shortfall nearly eight times greater will be much more difficult, especially as the city and the rest of the country is rocked by an ongoing pandemic.

Music City Center has already sent $40 million to the city to help with its tight budget and shoulder some of the financial burden the city is facing as COVID-19 continues to take its toll on the economy. And the Nashville Convention & Visitors Corp. is estimating that convention losses during the pandemic are expected to reach $1 billion.

Cuts will be unavoidable this time. Cooper is warning of cuts to public safety and city services like trash and recycling programs as well as severe impacts to Nashville schools.

TEXAS

Waco: Tax rate to remain unchanged

For another year, property tax rates will stay the same for residents in the City of Waco.

During a specially called budget meeting Tuesday night, the Waco city council voted unanimously to approve the tax rate for the 2020-2021 fiscal year.

The rate will remain at $0.776232 per $100 ($0.65 to fund maintenance and operations expenditures and $0.13 to pay debt service).

“Which is a rate lower than the ‘no new revenue’ tax rate, and thus, the City of Waco is not increasing property taxes for the 2020-2021 tax year," said councilman John Kinnaird.

The city has had the same tax rate since 2018.

How Will COVID-19 Affect My Property Taxes?

As homeowners across Texas receive their 2020 property appraisal notices, Reform Austin has launched an online resource to help everyone understand how the property tax system works and how much they can expect to pay.

Our calculator provides an estimate of taxes that will be due based on where in Texas the homeowner lives. It will be updated to reflect any changes in tax rates adopted by governmental entities later in the year.

Here are answers to some questions homeowners may have.

Will There be Tax Relief Due to COVID-19?
Many homeowners across Texas have seen their property values increase and are calling for tax relief to offset the financial pain they are suffering due to being unable to work while businesses have been closed to help stem the spread of coronavirus.

As Reform Austin has reported previously, there will be some tax relief thanks to action taken by the Legislature in 2019 to cut school district tax rates, but it will likely be less than property owners are hoping for.

According to April 15 opinion from Texas Attorney General Ken Paxton, there will be no temporary tax relief as a result of the pandemic, leaving the legislature’s previous action as about the only relief Texas owners can expect.

In Paxton's view, "purely economic, nonphysical damage to property caused by the COVID-19 disaster is not eligible for the temporary tax exemption allowed by the state's tax code."

Is Freezing Property Values an Option?
Some local officials have suggested a freeze on property values as a way to provide some tax relief. Fort Bend County Commissioner's Court has asked the state to revert property appraisals to 2019 levels, claiming only the governor, state comptroller or legislature has the power to enact this option.

In an interview with Dallas-Fort Worth TV station KTVT last week, Gov. Greg Abbott seemed to be holding out hope that the economic downturn Texas has experienced as a result of COVID-19 would result in lower property appraisals, which would mean lower tax bills.

It is clear the governor was wrong because state law concerning appraisals states, "all taxable property is appraised at its market value as of January 1", which was prior to COVID-19 and the stay-home orders that followed its arrival in Texas in March.

Even when corrected during the interview, Abbott insisted he was right.

"The fact of the matter is values may decline. And if those values decline, the property owner has a right to the lower valuation in the assessment of their property taxes."

Can I Still Protest my Appraisal During the Pandemic?
Appraisal districts are still allowing owners to protest their property appraisals. The deadline to do so is May 15 — or by 30 days after notice of appraised value is delivered, whichever is later.

Homeowners can file a protest online or by mail. Check your local appraisal district for details.

After filing a protest, you can expect the appraisal district to try to resolve protests via an informal process. If both sides do not reach agreement, a formal hearing before the appraisal review board for your county will be set.

In light of COVID-19, the formal hearings will be conducted by telephone conference call as authorized by the Texas Property Tax Code or by written affidavit. Any evidence must be notarized and submitted to the ARB in advance of the formal hearing.

Abbott has temporarily suspended certain statutes to allow appearances before a public notary via video conference call.

ARB decisions are binding for the tax year.

Once a value decision is made by the ARB, however, certain dissatisfied homeowners can, if they so choose, request binding arbitration without filing a lawsuit in district court.

As allowed by a new comptroller rule published last year, property tax arbitration hearings can be held over the telephone.

Austin Only Area in the State not Seeing Appraisals Rise

In a surprising and rare turn of events, most Travis County homeowners are not seeing the same increases in appraised values as the rest of the state.

Travis Central Appraisal District Chief Appraiser Marya Crigler, said last February, they lacked sufficient sales data to set new values for most homes in the county this year, so 2020 valuations will mirror 2019 values.

Crigler says her hands were tied when the Austin Board of Realtors issued a cease and desist order prohibiting her from using real estate sales data in calculating property values.

The end result is that about 70 percent of Travis County property owners will see no increase in the value of their homes.

Will My Tax Rate Go Up, Too?
Property tax reforms approved in the last legislative session lowered from 8% to 3.5% the amount cities and counties may raise property tax revenue without an election.

Since Abbott's disaster declaration in March, there has been debate about whether local governmental entities could exceed that limit during the pandemic.

The bill's author, Sen. Paul Bettencourt (R-Houston), says absolutely not.

Arguing to the contrary is the Texas Municipal League, which claims the pandemic gives cities and counties the right to revert to the original 8% limit without an election.

Bettencourt doesn't expect the dispute to be resolved "until state and local officials have seen the numbers see the extent of the economic and public health damage, and get around to writing budgets and setting tax rates."

The bottom line is that taxpayers searching for relief still have some options. They can protest their appraisal or lobby their local taxing units — city councils, commissioners courts, school districts and other governmental taxing entities — to not raise property tax rates.

Property Tax Reform Didn't Force Cities to Spend Less … Or Cut Texans' Tax Bills

Even with reforms, city property tax bills remain high, and cities still have plenty of money to spend.
As Texans continue looking for relief from high property tax burdens, city officials and their taxpayer-funded lobbyists who claimed property tax reform would force them to cut spending on core services like police and fire are being proven wrong.

Despite local officials' objections to reform during the last legislative session, a number of North Texas cities are getting along fine without busting the new revenue caps set by lawmakers last year.

Statewide property tax reforms in Senate Bill 2, passed in 2019, lowered the annual amount (some) cities can increase tax revenue without voter approval from 8 to 3.5 percent.

While SB 2 was designed to simply limit the growth of local spending and taxes and give citizens more control over their tax bills, some city officials made dire predictions that the bill's property tax "cuts" would threaten everything from homestead exemptions to bond ratings to city services—often singling out public safety.

Now, cities like McKinney, Frisco, and Plano aren't even approaching the new voter-approval tax rate their mayors complained would unduly restrict their access to taxpayers' wallets.

In fact, these cities and others are budgeting for FY 2021 based on the no-new-revenue rate or lower—and will still collect and spend more property tax money than last year.

Cities Still Spending More

Since the no-new-revenue rate calculation excludes taxes on new construction, even at the no-new-revenue rate, cities collect more money each year from new properties added to their tax rolls. That means bigger budgets and more spending, not cuts.

Growth plus higher levies on existing taxpayers has fueled years of skyrocketing property tax collections and spending in many cities—with each annual revenue increase setting a higher baseline for the next year's tax calculations.

In McKinney, for example, the average homeowner's city property tax bill went up 48 percent from 2010 to 2020. Even when city officials lowered the tax rate, it wasn't enough to offset rising property values. Over the same time, the city's total tax base more than doubled.

McKinney Mayor George Fuller was one of many local officials who testified last year against property tax reform measures. Fuller called letting voters decide on excessive tax hikes "a great soundbite" and said police and fire services would be "compromised and jeopardized" by lowering how much the city could raise taxes without voters' approval.

Yet this year, McKinney is budgeting based on the no-new-revenue rate for the first time—and at the same time is increasing public safety budgets and adding new police and fire personnel.

Frisco Mayor Jeff Cheney called last year's reform giving voters a say on excessive property tax hikes "political nonsense" and said he was counting on lawmakers to oppose the legislation, which he claimed would "shift the tax burden from corporations to residents as tools like the homestead exemption and senior exemption would have to be evaluated each year."

This year, however, Frisco is budgeting based on a tax rate below the no-new-revenue rate—and has maintained its homestead exemptions while also increasing public safety budgets and adding new police and fire positions.

Plano Mayor Harry LaRosiliere testified against the voter-approval limit in last year's House version of property tax reform and claimed it could negatively impact the city's bond rating. LaRosiliere signed a coalition letter with Fuller and mayors of 22 other cities aimed at weakening pro-taxpayer provisions in the bill.

This year, Plano is budgeting based on the no-new-revenue rate for the second time in a row since citizens elected more taxpayer-friendly council members—and yet the city has maintained a AAA bond rating and is not cutting public safety personnel.

But Plano's no-new-revenue rates were also calculated on an elevated baseline. The average Plano homeowner's city taxes increased 40 percent over the prior five years, while the city's total tax base grew almost 60 percent.

"There is still plenty of room in the Plano budget to make cuts!" said local resident Debbie Bonenberger. "It is not good enough that we are down to the no-new-revenue rate. Keep going lower."

Citizens Still Paying High Taxes

Cities collect property taxes to spend on two things: funding the government's daily operations to provide city services and repaying debt. That spending is what drives property taxes.

Citizens' property tax burdens are flattened as cities adopt the no-new-revenue rate, but are still at levels driven up by years of compounding increases. Even with reforms, residents' city property tax bills remain high, and cities still have plenty of money to spend.

Much of city officials' fear-mongering about reforms causing draconian cuts was coordinated by Texas Municipal League lobbyists, who are paid with taxpayer funds to promote city government priorities that are often anti-taxpayer. (TML's legislative counsel presented a workshop last year on raising city revenues called "Shaking the Money Tree.")

Ahead of the 2019 legislative session, TML committed to "vigorously oppose any legislation that would erode municipal authority in any way," especially laws that would "impose a revenue and/or tax cap of any type, including a reduced rollback rate."

Despite coordinated opposition, lawmakers succeeded in lowering the voter-approval rate, but some provisions pushed by city officials and lobbyists made their way into the law—including exempting cities with under 30,000 citizens (about 90 percent of Texas cities) and allowing "unused increments" of the 3.5 percent cap to carry over to future tax rates without voter approval.

So, while SB 2 put a check on some city tax burdens, it didn't lower Texans' property tax bills—only their local officials can do that.

Where's the Relief?

With or without property tax reforms, the size of Texans' property tax bills depends largely on their local officials—who set the rates and spend the money.

To reduce Texans' property tax bills, local officials must lower tax rates to offset rising property values and control or reduce spending.

Cities will be finalizing their budgets and tax rates in the coming weeks, so citizens still have opportunities to weigh in on local spending plans and advocate for city officials to "keep going lower" with further tax reductions—providing real relief from years of ever-higher tax bills.

Note that cities adopt their budgets and tax rates in the same meeting as the final public hearing, meaning citizens need to contact their council members ahead of those meetings to have their input incorporated into the final proposals.

Plano City Council will hold its final budget hearing and adopt a budget and tax rate for FY 2021 on September 14.

Frisco City Council and McKinney City Council will hold final budget hearings and adopt FY 2021 budgets and tax rates on September 15.

UTAH

The pandemic has supercharged Utah's housing market

Utah has long lured homebuyers from other states with its unique charms. A pandemic-induced exodus from many big metro areas is making some of its best features look even better.

Homes sales along the Wasatch Front and in other pockets of the state have rebounded dramatically after what proved to be a milder-than-expected slowdown as the coronavirus first took hold in the spring. This is a market bounce with the potential to buoy Utah's economy, driven in part by people who can now work from anywhere and those looking to get closer to nature. It's also driven by historically low interest rates and Utah's best-in-country unemployment rate.

"June and July were, frankly, nuts," said Alicia Holdaway, president of the Salt Lake Board of Realtors. Utah, she said, is now one of the top real estate markets in the nation.

Social shifts created by the pandemic are not only drawing people to Utah from places like New York, California, Florida and Texas, but also creating waves of residents relocating inside the state. Many are dropping downtown condominiums for more space and quiet in suburban settings.

Interest rates on a typical 30-year mortgage are now well below 3%, a new all-time low, and that has spurred on many borrowers who were waiting. Included are young people in Utah who have managed to save money while staying at home and are now putting those nest eggs toward a down payment. And while home prices remain high, buyers moving for pandemic-related reasons are commonly selling a home they have equity in, getting a lower interest rate and reducing their commute times to boot.

Utah offers not only its ski and redrock recreational treasures, but it also seems to those coming in from larger states to be a place with room to social distance, relatively free of lockdowns.

Software sales executive Christin Anderson got a green light in June from her employer to work from home indefinitely. The primary draws of her life in San Francisco — public events, live entertainment, movies — remain dormant anyway, so the Bay Area resident opted to rent her condo and booked a long-term Airbnb in Park City, to see what it was like.

A five-week stint in Utah morphed into home hunting and Anderson bought a two-bedroom town house in late August less than a five-minute walk from downtown. She's delighted with the move. "The pandemic," Anderson said, "presented an opportunity to live where I want to live instead of living near my physical company office."

'Never seen anything like this'

Don't underestimate the power of Utah's low unemployment rate. It was a big magnet pulling growth the state's way with record lows as recently as February. Almost six months into the pandemic, that rate, is at roughly 4.5% — almost half the most recent U.S. rate of 9.2%.

Gina Stocksdale recently relocated to Taylorsville from Ontario, Calif., to be closer to five of her six children. She said she had 26 job openings to apply for in Utah as she sought employment with the move in mind.

"You guys call it 'life balance'? Yeah, that doesn't exist in California," the 57-year-old account manager joked about the change of pace since moving to her new town home. "I find that there's a lot less pressure. And I like that attitude."

Real estate brokers focusing on relocating families say the new demand is pushing out to locales not usually seen as buying hot spots, such as Logan and Richfield.

Luxury mountain properties and suburban single-family homes with larger lots along the Silicon Slopes corridor are getting special attention, agents say, but demand for everything is high right now.

Salt Lake County set an all-time record for home sales in a single month in July, according to new data. Sales were also up in June and July for retirement communities in St. George, pushing home inventories across that area to new lows.

And with healthier outdoor living and recreation now at a premium, Summit and Wasatch counties are gaining in sales as never before, according to data and longtime market experts.

Something of a rural backwater a little more than 20 years ago, the resort town of Park City and surrounding communities continue to rise as a destination for luxury buyers and investors moving full time from larger states, well-heeled college students who want to ski while learning remotely and those buying vacation properties as they ride out the health crisis.

Homes sales in Park City for July and August alone were double their levels from those same months in 2019.

"I've definitely experienced some cycles," said Michael Hebert, a real estate agent covering Park City and Summit and Wasatch counties since 1996, "but I've never seen anything like this."

'25 offers on a property'

Looking back, the coronavirus resulted in some initial turbulence for Utah's real estate industry but didn't have major lasting effects.

Lobbyists pushed hard to make sure those in the real estate sector were deemed "essential workers" in all of Utah's initial county-issued health decrees, which not all states did. It led to new approaches to showings, staggered open houses and a big move to virtual tours. Sales slowed a bit in April and May and then roared back.

Now an emerging issue is heightened demand and dwindling inventories of existing homes. This is only deepening the state's concerns about affordable housing.

The first half of 2020 saw sales reach an unexpectedly mild decline of only 2% below the same months of 2019. In and around Park City, first half sales were 2% above last year. Salt Lake County's July numbers then beat the highest months of overheated sales leading into the Great Recession a decade ago.

August was similarly intense, agents say, but the unexpected drawdown on inventories of existing homes may have started to slow sales already.

Homes in Salt Lake County now boast the Wasatch Front's highest median price, at more than $406,960, all housing types included. For the five-county area of Weber, Davis, Salt Lake, Utah and Tooele counties, that price is now above $343,500.

The Wasatch Front's most expensive ZIP codes are now Emigration Canyon, 84108, with a median price of $725,000; the Avenues, 84103, at $687,500; Utah County's Alpine, 84004, at $682,500; Eden in Weber County, 84310, at $604,000; and suburban Draper, 84020, at $600,000.

By this time in the early fall, the Wasatch Front usually has five times the property listings it currently has to show to buyers.

"That's why we get 25 offers on a property," said Babs De Lay, a veteran real estate agent specializing in residences in the Salt Lake City area. "It's just everything is selling over the asking price."

'Lifestyle' choices

It's another world up in Park City, where the median home price hovers around $2 million. Home sales are "on fire" there and in surrounding areas in what City Council member Tim Henney says is a historic spate of buying that could change that resort community forever.

At the end of August, pending home sales in the resort town were on track to top $564 million, compared to $215 million by that same time last year.

"This is what we know is happening around the country, with people fleeing cities where there's more density for suburbs and places like Park City, where they feel the lifestyle is such that they can physically distance," Henney said. "You have a face mask mandate, which is an order and everybody is complying, and it creates a sense of safety."

Utah also has emerged as a more affordable alternative to Aspen or Vail, Colo., for college collaboration houses, clusters of students renting vacation homes to take advantage of the outdoors while they complete their coursework online.

Even under stay-at-home orders in Summit and Wasatch counties issued in early spring, "people were still putting skins on their skis and skiing. They were hiking. People could still get out," said William Winstead, a broker with Summit Sotheby's and president of Park City Board of Realtors.