Preliminary Report

New York City Advisory Commission on Property Tax Reform

January 31, 2020

Dear Mayor de Blasio and Speaker Johnson:

On behalf of the members of the New York City Advisory Commission on Property Tax Reform, I am pleased to transmit this Preliminary Report with initial recommendations on reforming New York City's property tax system.

In establishing the Commission, you charged it with evaluating the existing property tax system, including "the number of tax classes, the methods of determining real property market values, treatment of real property value increases, relief for low-income and senior homeowners, and allocation of tax shares across real property classes." The Commission's mandate was to undertake this comprehensive review and analysis of the City's complex property tax system with the goal of making the system "simpler, clearer, and fairer, while ensuring there is no reduction in revenue used to fund essential City services." In addition, the mandate included solicitation of public input through 10 public hearings and the issuance of a preliminary report and a final report.

Since its formation, the Commission has held ten public-facing events, including five public hearings (one in each borough), three hearings on specific topics with invited experts, and two public meetings. The Commission also met regularly to discuss and analyze data and modeling.

In the near future, the Commission will schedule a second round of public hearings across the City to solicit public comment on the Preliminary Report, and will engage with stakeholders to discuss the report's contents. The public hearings will be followed by further deliberation and the release of a final report.

It is our hope that the analysis and initial recommendations contained herein are helpful to you and other policymakers, to the general public, and to all stakeholders who want to see a fair and transparent property tax system.

I want to express my deep gratitude to members of the Commission and to the team of dedicated and talented expert staff who helped provide the requisite detailed information and analysis so the Commission could fulfill its mandate.

Finally, I want to thank Vicki Been, my co-chair who resigned from the Commission this past April to take on another challenging assignment as Deputy Mayor for Housing and Economic Development. In many ways this preliminary report could not have been accomplished without her substantial input and effort and I owe her my deepest appreciation.

Sincerely,

Marc V. Shaw
Chairperson

EXECUTIVE SUMMARY 7

INTRODUCTION 13
THE COMMISSION 15
MEMBERS 15
HEARINGS AND MEETINGS 17
A BRIEF HISTORY OF NEW YORK CITY'S PROPERTY TAX SYSTEM 19
1940S TO 1960S 19
1970S, TAX REFORM AND ITS AFTERMATH 20

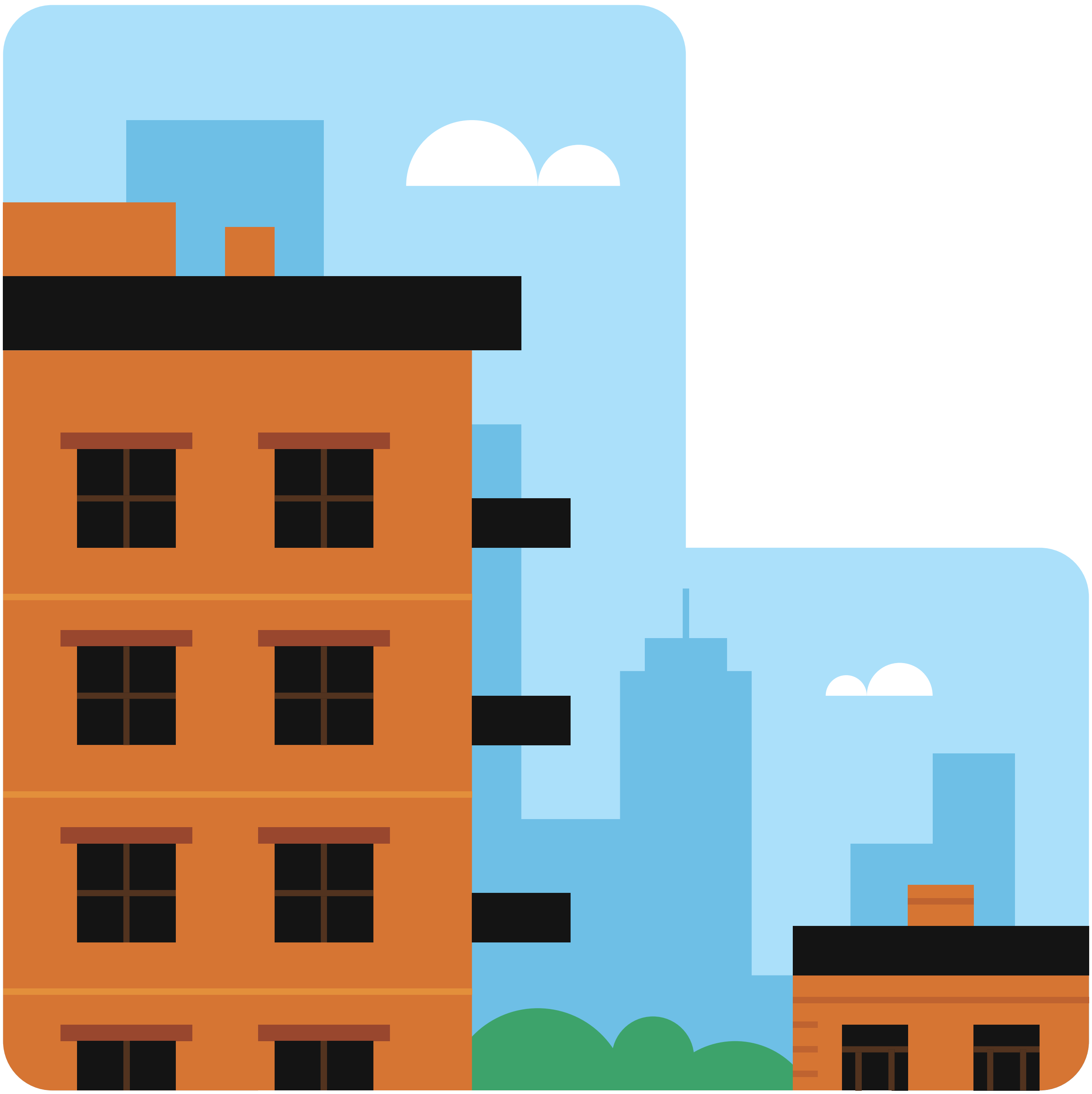
THE CURRENT PROPERTY TAX SYSTEM: CALCULATION OVERVIEW 23
STEP 1: CLASSIFICATION OF THE PROPERTY INTO ONE OF FOUR CLASSES 26
STEP 2: ESTIMATION OF DEPARTMENT OF FINANCE VALUE 27
STEP 3: APPLICATION OF ASSESSMENT RATIOS (ACTUAL ASSESSED VALUE) 28
STEP 4: APPLICATION OF CAPS AND PHASE-INS (TRANSITIONAL AND BILLABLE ASSESSED VALUE) 28
STEP 5: SUBTRACTION OF EXEMPTIONS (TAXABLE BILLABLE ASSESSED VALUE) 29
STEP 6: CLASS TAX RATES AND CLASS SHARES 30
STEP 7: SUBTRACTION OF ABATEMENTS 32
STEP 8: BILLING AND COLLECTION 32

SYSTEM CHALLENGES AND ISSUES ADDRESSED IN REFORM 35
ESTIMATION OF MARKET VALUE (DEPARTMENT OF FINANCE VALUE) 38
CLASS 1 38
CLASS 2 COOPS 39
CLASS 2 CONDOS 40
CLASS 2 SMALL RENTALS 43
CLASS 2 LARGE RENTALS 45
CLASS 4 COMMERCIAL 45
ASSESSED VALUE GROWTH CAPS AND PHASE-INS 47
CLASS TAX RATES AND CLASS SHARES 50
CURRENT CLASS SHARE SYSTEM METHODOLOGY AND CHALLENGES 50
HOW DOES THE SHARE OF TOTAL VALUE AND SHARE OF TOTAL LEVY VARY BY PROPERTY TYPE? 52
SUBTRACTION OF EXEMPTIONS (TAXABLE BILLABLE ASSESSED VALUE) 54
SUBTRACTION OF ABATEMENTS 56
TAX BURDEN 57
HOW DO EFFECTIVE TAX RATES VARY BETWEEN DIFFERENT PROPERTY TYPES 57
HOW DO EFFECTIVE TAX RATES FOR NYC COMPARE TO OTHER CITIES 58
HOW DO EFFECTIVE TAX RATES VARY WITHIN PROPERTY TYPES? 59

INITIAL RECOMMENDATIONS 63

Section 1

Executive Summary



Executive Summary

New York City is home to a mosaic of real property, from the iconic skyscrapers that shape its skyline to the varied domiciles that house its 8.6 million residents. The residential dwellings, office buildings, and small business corridors that line its streets contribute to New York's diversity of industry, rich culture, and vibrancy of its neighborhoods. Though the topography of the City's properties may vary from neighborhood to neighborhood, there is one common thread that stitches most of them together – the obligation to pay property taxes. While this connection may bind properties together at an elemental level, commonalities beyond that can be quite limited. A close look at New York City's property tax system will show that there can be vast differences in how properties are classified, valued, and assessed, lending credence to the widely held characterization that the system is overly complex, opaque, and arcane.

The Real Property Tax is an integral part of local government budgets; revenues derived from them help fund essential public services such as education, public safety, infrastructure, and much more. In New York City, the property tax comprises approximately 45 percent of the City's tax revenue, enabling the delivery of top-notch services to those who live, work, and visit the City. As a result, it is difficult to overstate the importance of the property tax, but the impact on those who bear the responsibility of paying it must not be overlooked.

Any property tax system should be fair, predictable and transparent, and should not induce displacement among long-term homeowners and renters from the neighborhoods they've called home. These principles should be at the center of any system's design, but this seemingly universal sentiment is constrained by a fundamental challenge – achieving a delicate balance between sustaining and enhancing essential government services that City residents expect while ensuring that the tax burden does not place an enormous strain on household budgets.

Designing the ideal property tax system has confounded public officials at all levels and branches of government for decades. Indeed, in the lead-up to the enactment of today's system, property tax reform engendered fierce debate among policymakers as they struggled with designing a system that would not saddle homeowners with exorbitant tax bills. The long road to property tax reform, which followed the foundational 1975 Court of Appeals decision, Hellerstein v. Assessor of the Town of Islip that essentially struck down the use of fractional assessments in valuing properties, took six years and was marked by legislative extensions, creation of a temporary legislative commission to study reform proposals, a gubernatorial veto of reform legislation, and an override of that veto. What emerged from the tumultuous process was today's system made up of four property classes with market valuation restrictions, different assessment ratios, year-over-year caps in growth, transition mechanisms, a complicated class share system, and more.

The system was not a panacea. In fact, just one decade after its enactment, it was criticized for causing inequities among property owners. In establishing the New York City Real Property Tax Reform Commission in 1993, the last government-appointed commission to study New York City's property tax system, then Mayor David Dinkins spoke of the need for property tax reform, saying that "after a decade of experience, a number of profound problems are visible." The commission cited many issues that plagued the system, e.g., the treatment of coop and condominium owners relative to owners of 1-3 family homes. The commission's report was issued on December 30, 1993, very close to the official start of a new mayoral administration. While the 1993 Commission's work did not trigger a wholesale reform of the system, it is believed to have aided in the enactment of the Cooperative and Condominium Property Tax Abatement Program ("Coop-Condo Tax Abatement") in 1996. With no significant reform effort underway, the discrepancies persisted and only became more pronounced with the passage of time.

Today, the chorus of voices decrying the system as inequitable has multiplied. While there is little debate over the need for reform, there is considerable debate about the extent to which the system unfairly treats certain property classes, and properties within those classes, as well as the prescriptive remedies needed to rationalize the system.

On May 31, 2018, Mayor Bill de Blasio and City Council Speaker Corey Johnson established the New York City Advisory Commission on Property Tax Reform ("the Commission") in order to make the system "simpler, clearer, and fairer, while ensuring that there is no reduction in revenue used to fund essential City services." The Commission's mandate was to evaluate all aspects of the property system including, but not limited to, the property tax classification system, methods of determining property market values and assessments, treatment of property value increases, relief for low-income and senior homeowners and the calculation of tax rates. In empaneling the Commission, Mayor de Blasio and Speaker Johnson sought to assemble a group of experts with diverse backgrounds who could recommend a comprehensive and thoughtful overhaul of the system.

The Commission held five public hearings across the City, three hearings with invited experts, and two public meetings to hear an overview of the current system and the various policy levers to consider while pursuing reform. The feedback received from the public and experts generally centered on the amount of property taxes paid relative to market value, comparisons of property tax bills across neighborhoods, and difficulty with understanding how the system works. Many of the issues highlighted by those who testified could be traced back to flaws in current law, including:

- The under-valuation of some coops and condominiums as a result of state law restrictions that require that they be valued as if they were rental properties rather than based on comparable sales.
- The Assessed Value growth caps that have caused distortions in the Effective Tax Rates (taxes paid per $100 of sales-based market value) of 1-3 family homes. Properties that have experienced significant appreciation have lower Effective Tax Rates than new homes or homes whose value has remained relatively flat.

The Commission spent more than a year analyzing data and examining various reform models that comport with its mandate. Based on the extensive deliberations of Commission members, ex-officio members and staff, the Commission is advancing initial recommendations in this preliminary report that address inequities in the system and provide the Commission's appointing authorities and policymakers with a roadmap to reform.

The Commission reached consensus on 10 initial recommendations:

1. The Commission recommends moving coops, condominiums and rental buildings with up to 10 units into a new residential class along with 1-3 family homes. The property tax system would continue to consist of four classes of property: residential, large rentals, utilities, and commercial.

2. The Commission recommends using a sales-based methodology to value all properties in the residential class.

3. The Commission recommends assessing every property in the residential class at its full market value.

4. The Commission recommends that annual market value changes in the new residential class be phased in over five years at a rate of 20% per year, and that Assessed Value Growth Caps should be eliminated.

5. The Commission recommends creating a partial homestead exemption for primary resident owners with income below a certain threshold. The exemption would be available to all eligible primary resident owners in the residential class and would replace the current Coop-Condo Tax Abatement.

6. The Commission recommends creating a circuit breaker within the property tax system to lower the property tax burden on low-income primary resident owners, based on the ratio of property tax paid to income.

7. The Commission recommends replacing the current class share system with a system that prioritizes predictable and transparent tax rates for property owners. The new system would freeze the relationship of tax rates among the tax classes for five-year periods, after which time the City would conduct a mandated study to analyze if adjustments need to be made to maintain consistency in the share of taxes relative to fair market value borne by each tax class.

8. The Commission recommends that current valuation methods should be maintained for properties not in the new residential class (rental buildings with more than 10 units, utilities, and commercial).

9. The Commission recommends a gradual transition to the new system for current owners, with an immediate transition into the new system whenever a property in the new residential class is sold.

10. The Commission recommends instituting comprehensive reviews of the property tax system every 10 years.

Further details on the Commission's recommendations can be found in the main body of this report.

This is a preliminary report and a final report will follow. This preliminary report is presented as a framework for reform and is intended to elicit comments from the general public and all stakeholders so that a set of final recommendations can be issued. To that end, the Commission will hold another round of hearings, one in each borough, to solicit feedback on the contents of this preliminary report. The hearing schedule is being developed and, once finalized, will be available on the Commission website at https://www1.nyc.gov/site/propertytaxreform/index.page. The Commission encourages members of the public to attend the hearings and present their opinions.

As the Commission continues to engage the public for comment on the 10 initial recommendations outlined in this report, it will also be meeting regularly to reach consensus on outstanding issues and additional items that will be raised through the stakeholder engagement and public hearing processes. For example, the Commission recognizes that the incidence of the property tax on renters is a complex issue, and experts convened at public hearings sponsored by the Commission confirmed that it is hard to systematically measure and more work needs to be done. Additional issues that the Commission will discuss include, but are not limited to, ending fractional assessments for properties not in the new residential class, the length of the period for transitioning to the new system, and defining the parameters of the targeted owner relief programs. Central to this next phase of the Commission's work will be to address these issues within the mandate to ensure that reform does not result in a reduction in revenue.

For almost 40 years, New York City's property tax system has dictated how myriad properties are taxed and its effects, for better or worse, have affected all corners of the City. The City's elected leadership determined that it was time for a serious review. The Commission has undertaken that review with diligence, thoughtfulness, and creativity and presents this preliminary report to guide serious discussions on how best to reform the system.

Section 2

Introduction

Introduction

I. The Commission

The New York City Advisory Commission on Property Tax Reform was appointed by Mayor de Blasio and Speaker Johnson in May, 2018. They charged the Commission with evaluating all aspects of the City's current property tax system and recommending reforms to make that system fairer, simpler, and more transparent, while ensuring that there is no reduction in revenue used to fund City services.[1] The members of the Commission are:

Marc V. Shaw, Chair: Marc V. Shaw is Chair of the Advisory Board and Senior Advisor at the CUNY Institute for State and Local Governance. From 2010 to 2014, he was Senior Vice Chancellor for Budget, Finance and Financial Policy at CUNY. Mr. Shaw served as a Senior Advisor to the Governor on Metropolitan Transportation Authority ("MTA") finances during 2009. From 2006 to 2008, he was the Executive Vice President for Strategic Planning at Extell Development Company. From 2002 to 2006, he was the First Deputy Mayor and Deputy Mayor for Operations to Mayor Bloomberg. In 1996, was appointed as the Executive Director and Chief Operating Officer for the MTA. Mr. Shaw has served as NYC Budget Director, NYC Finance Commissioner, and Finance Director for the NYC Council. Mr. Shaw also worked for the NYS Senate Finance Committee

Allen P. Cappelli: Allen P. Cappelli is a practicing attorney from Staten Island who also serves on the board of the City Planning Commission. He served as a Metropolitan Transportation Authority Board Member, as Civil Service Commission member, as vice chairman and land use chairman for Staten Island's Community Board One, and as a commissioner on the New York State Charter Commission for Staten Island. He has served as a board member of Project Hospitality, St. Vincent's Medical Center of Richmond County, and President of Staten Island Community Television.

Kenneth J. Knuckles: Kenneth J. Knuckles is a prominent business and civic leader from the Bronx who serves as the Vice Chair of the City Planning Commission. Previously, he served as President and Chief Executive Officer

1 See https://www1.nyc.gov/site/propertytaxreform/about/about-the-property-tax-reform-commission.page.

of the Upper Manhattan Empowerment Zone Development Corporation (UMEZ), Vice President of Support Services at Columbia University, Commissioner of the New York City Department of General Services, Deputy Bronx Borough President, and Assistant Housing Commissioner.

Carol O'Cleireacain: Carol O'Cleireacain is an Adjunct Professor at Columbia University's School of International & Public Affairs, with a Ph.D. in economics from the London School of Economics. She was NYC Finance Commissioner and Budget Director under Mayor Dinkins and has held appointments as Detroit's Deputy Mayor for Economic Policy (Mayor Duggan), NJ Deputy State Treasurer (Gov. Corzine), consultant to NY Lieutenant Governor Richard Ravitch, Senior Fellow at the Brookings Institution, and chief economist of District Council 37 AFSCME during the 1970's fiscal crisis.

James A. Parrott: James A. Parrott is Director of Economic and Fiscal Policies at The Center for New York City Affairs at The New School. In previous positions, Parrott worked for the Fiscal Policy Institute, the Office of the State Deputy Comptroller for New York City, the City of New York (as chief economist for economic development), and for the International Ladies' Garment Workers' Union. Parrott was a member of Governor Cuomo's 2012-13 Commission on Tax Reform and Fairness and a member of the City Council's 2015 Task Force on Economic Development Tax Expenditures.

Gary Rodney: Gary Rodney is Chairman of CREA LLC, a low-income housing tax credit syndicator. As Chairman, Rodney works with the senior management team of CREA and its partners to help finance quality affordable housing in cities across the country. Prior to assuming this role, Rodney served as the President of the New York City Housing Development Corporation.

Elizabeth Velez: Elizabeth Velez is President and Chief Contract Administrator of the Velez Organization, and is on the boards of the New York Building Congress, the National Hispanic Business Group, the Association of Minority Enterprises of New York (AMENY), the Mayor's Commission on Construction Opportunity, the Board of ACE Mentor of New York and the NYC Department of Business Services Advisory Board.

Additionally, **Vicki Been** served as Co-Chair of the Commission until she returned to City government in April 2019 as Deputy Mayor for Housing and Economic Development.

The Commission also includes ex-officio members from City agencies and the City Council. They are:

Jacques Jiha, Commissioner of the Department of Finance
Melanie Hartzog, Dir. of the Office of Management & Budget
Latonia McKinney, Dir. of the City Council Finance Division
Raymond Majewski, Deputy Director and Chief Economist, Council Finance Division

In addition, the Commission's work was supported by employees from City Hall, the City Council Finance Division, Department of Finance and Office of Management and Budget:

Francesco Brindisi, Office of Management and Budget
Jeremy Crimm, First Deputy Mayor's Office
Emre Edev, City Council Finance Division
Michael Gedal, Department of Finance
Joshua Goldstein, Office of Management and Budget
Michael Hyman, Department of Finance
Alexander James, Department of Finance
Patrick McCandless, First Deputy Mayor's Office
Matthew Penfold, Department of Finance
Karen Schlain, Department of Finance
Sherif Soliman, First Deputy Mayor's Office
Davis Winslow, City Council Finance Division

Hearings and Meetings

The Commission held its first public meeting on July 20, 2018; at that meeting the Department of Finance provided a primer about the current property tax system.[2] The second meeting, held on September 4, 2018, featured a presentation from the City Council Finance Division team on the levers that can be used to reform the system. [3]

The Commission then held a series of public hearings in each borough to solicit specific feedback about the challenges taxpayers face in neighborhoods across the City. The first such hearing was held on Staten Island on September 27, 2018[4]; followed by Queens on October 3, 2018[5]; the Bronx on October 11, 2018[6]; Brooklyn on October 15, 2018[7]; and Manhattan on October 23, 2018[8].

The Commission then convened hearings of experts on a variety of subjects that Commission members wanted to hear more about:

Who pays the property tax, and how the property tax impacts land and housing prices and the rent charged to tenants living in rental properties? (December 13, 2018), available at *https://councilnyc.viebit.com/player.php?hash=4GJH2nSgvus6*:

Charles Brecher, Citizens Budget Commission

Ana Champeny, Citizens Budget Commission

Moses Gates, Regional Plan Association

George Sweeting, Independent Budget Office

Mark Willis, NYU Furman Center

2 Available at *https://youtu.be/mFAVuAeI3tA*. Videos of all the Commission's public meetings and hearings can be found at https://www1.nyc.gov/site/propertytaxreform/hearings-meetings/hearings-meetings.page.
3 Available at *https://youtu.be/SV7IcQo1KK4*.
4 Available at *https://youtu.be/IS_wx7oap4c*
5 Available at *https://youtu.be/tSpDlM5Yqng*
6 Available at *https://youtu.be/vm2ww1pClHA*
7 Available at *https://www.youtube.com/watch?time_continue=1&v=W_ZM_T1Fz4U*
8 *https://www.youtube.com/watch?v=Ahnu7ia4jAcps://youtu.be/Ahnu7ia4jAc*

How does the property tax affect rents, and the decisions that owners and developers make about using their properties for rentals? (January 22, 2019), available at *https://councilnyc.viebit.com/player.php?hash=AwCqy0jCqYLh*:

Bradley Borden, Professor of Law, Brooklyn Law School

Andrew McLaughlin, Executive Director, New York City Rent Guidelines Board

David F. Merriman, James J. Stukel Presidential Professor, College of Urban Planning and Public Affairs, University of Illinois at Chicago; Director, Fiscal Futures Project, Visiting Fellow, Lincoln Institute of Land Policy

Circuit breakers and other mechanisms to provide relief to particular taxpayers, and transition systems for reforms (February 28, 2019), available at *https://www.youtube.com/watch?v=CHSZdwmZilI#action=share*:

John Anderson, Baird Family Professor of Economics, University of Nebraska - Lincoln College of Business and Lincoln Institute of Land Policy

Adam Langley, Senior Research Analysis, Lincoln Institute of Land Policy

In addition to the public hearings, the Commission asked people to submit written testimony.

II. A Brief History of New York City's Property Tax System

Under New York's municipal home rule structure, the State retains authority over major changes in taxation for New York City.[9] This section provides a short history New York City property tax system and a condensed summary of the important changes that have occurred throughout the years.

1940s to 1960s

New York State Real Property Tax Law (RPTL), which currently governs how property taxes are administered in New York State, first became effective in 1959. Prior to that, property tax administration was controlled by a variety of boards as well as Federal, State, and local assessment practices. The primary objective of the RPTL was to consolidate all the general laws relating to real property assessment and taxation into a single law, and it served as a simplified and chronological language upon which future amendments were based.[10] RPTL also governs most methods by which New York City is allowed to administer and collect property taxes.

In New York City, specifically, there was a major housing shortage following World War II. This shortage occurred both because housing production had stalled during the war in order to redirect materials and labor to the war effort, and many soldiers returning from the front sought homes in the City.[11] To ease the burden the shortage was imposing on homeowners, who were seeing the values of their properties (and thus their taxes) rise sharply, the City followed a policy of ignoring increases in the market values of those homes.[12] To ease the burden on renters, the City readopted rent control policies during World War II that had first been adopted in 1920, but had expired in 1929.[13] As the shortage eased in the late 1940s and 1950s, the City faced another crisis: the flight of the middle class to the suburbs.[14] To encourage homeowners to remain in the City, the City

9 See, e.g. https://www.nysenate.gov/legislation/laws/MHR/10; https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1959&context=plr; https://www.nytimes.com/2018/07/25/nyregion/nyc-home-rule-state-laws.html. Thus, New York State's Real Property Law governs assessment practices within localities.

10 See A History of the Real Property Tax and Equalization in the State of New York (The Uniform Standard, 2006-2007), available at https://www.victorny.org/DocumentCenter/View/148/A-History-of-the-Real-Property-Tax-and-Equalization-in-the-State-of-New-York?bidId=.

11 See, e.g. Housing Shortage Put Up to Dewey, N.Y. Times (May 19, 1945) p. 10, ProQuest Historical Newspapers, Accessed Dec. 4, 2018. ("New York is experiencing 'the worst housing shortage in its history.'")

12 Grayson Commission Report at 8.

13 See, e.g. New York City Rent Guidelines Board, "Rent Regulation Prior to the Establishment of the Board," available at https://www1.nyc.gov/assets/rentguidelinesboard/pdf/history/historyoftheboard.pdf. See also Charles Grutzner, City Rent Control Now is in Effect; Mayor Signs Three Bills After Refusing to Heed Appeals From Realty Groups, N.Y. Times (Sep. 18, 1947) p. 1 ProQuest Historical Newspapers, Accessed Dec. 4, 2018.

14 See, e.g., Michael Oreskes, Census Traces Radical Shifts in New York City's Population, N.Y. Times (Sept. 20, 1982), available at https://www.nytimes.com/2018/07/25/nyregion/nyc-home-rule-state-laws.html ("[T]he previous record [was the] 856,000 people who left the city during the height of suburban growth between 1950 and 1960.")

froze their assessments, reasoning in part that the policy achieved parity between homeowners and renters still protected by rent control.[15]

In 1960, the State Legislature reconstituted the State Board of Equalization and Assessment as a permanent agency within the Office for Local Government.[16] Known today as the New York State Office of Real Property Tax Services (ORPTS), the office determines final special franchise values and State equalization rates, which are ratios of assessed value over the market value of real property.[17] The equalization rates serve as a measure of a municipality's level of assessment, which determines how school district or county taxes are distributed. Distributing the tax burden based on assessed values would be incorrect when assessed values relate differently to market value. Equalization rates are used to translate assessed values into market values for the purpose of distributing the tax levy.[18]

1970s, tax reform, and its aftermath

Like New York City, many jurisdictions in New York State assessed property values at a fraction of their market value, and the practice led to inequities in many towns and cities across the State.[19] In 1974, Jerome and Pauline Hellerstein sued the Town of Islip, arguing that fractional assessments violated Section 306 of the RPTL[20], which mandated that all real property be assessed at full market value. In 1975, New York's Court of Appeals agreed with the plaintiffs, finding that the fractional assessment system would lead to, and mask, significant inequities:

> *"... [T]he percentage of undervaluation is rarely a matter of common knowledge, so that it is extremely difficult to ascertain whether there is uniformity in the proportion or whether through incompetence, favoritism, or corruption of the assessors, some portions of the taxpaying body are bearing the others' burdens, as between either individuals or local groups."*[21]

The Court acknowledged, however, the "fiscal chaos"[22] that might result from the immediate upending of the assessment practice, and required Islip to reassess all of its properties at full value within 36 months, allotting what it saw as a reasonable time period for orderly compliance.

The court's decision affected the whole state, however, and the State Legislature granted itself a four-year extension to meet the court's order, as it needed more time to sort out a difficult political situation. In 1977, Governor Hugh Carey created a Temporary Commission on Real Property Taxation to explore means of protecting homeowners from large tax increases. Legislators understood that the full market value taxation Hellerstein called for was likely to cause political backlash because a State Assembly Task Force that studied the issue in 1979 found that the Hellerstein mandate would double property tax bills for homeowners in Brooklyn, Queens, and Staten Island.[23] As homeowners began to voice their concerns, members of the New York Senate and Assembly concluded that the change ordered by the Hellerstein court was not politically viable.[24]

15 Grayson Commission Report.

16 See A History of the Real Property Tax and Equalization in the State of New York (The Uniform Standard, 2006-2007), available at *https://www.victorny.org/DocumentCenter/View/148/A-History-of-the-Real-Property-Tax-and-Equalization-in-the-State-of-New-York?bidId=*

17 *https://www.tax.ny.gov/research/property/legal/stbd/index.htm*

18 *https://www.tax.ny.gov/pit/property/learn/eqrates.htm*

19 See A History of the Real Property Tax and Equalization in the State of New York (The Uniform Standard, 2006-2007), available at *https://www.victorny.org/DocumentCenter/View/148/A-History-of-the-Real-Property-Tax-and-Equalization-in-the-State-of-New-York?bidId=*.

20 N.Y. REAL PROP. TAX LAW § 306 (McKinney), repealed by Act of Dec. 3, 1981, ch. 1057, § 1, 1981 N.Y. Laws 219 (McKinney) (codified at N.Y. REAL PROP. TAX LAW § 305 (McKinney)).

21 In the Matter of Pauline Hellerstein v. Assessor of the Town of Islip, 37 NY2d 1, 13 (Ct. App. 1975).

22 Id. at 14.

23 The Legislative Response to the Property Tax Crisis: An Analysis of Public Policy Approaches to Classification, New York State Assembly Task Force on School Finance and Real Property Taxation, September 1979 (finding that shift to full market value assessments would lead to large jumps in average property tax bills for many city homeowners—as much as a 139 percent rise in Queens, 108 percent in Staten Island, and 104 percent in Brooklyn).

24 N.Y.C. Ind. Budget Office, Twenty-Five Years After S7000A: How Property Tax Burdens Have Shifted in New York City (2006) [hereinafter IBO: Twenty-Five Years After S7000A], available at *https://ibo.nyc.ny.us/iboreports/propertytax120506.pdf*, supra note 9 at 9.

After granting itself several additional extensions to study the issue, the Legislature passed a tax reform bill known as S7000A in 1981, overriding a veto from Governor Hugh Carey, who argued that the bill would "result in the continuation of the inequitable, chaotic, and haphazard assessment practices which homeowners have been subjected to for many years."[25] S7000A repealed Section 306 of the RPTL and allowed all municipalities, aside from New York City and municipalities in Nassau County, to continue the fractional assessment practices the Court had struck down as violating that section.[26] In New York City and Nassau County, however, S7000A set up four distinct classes for one- to three-family homes ("Class 1"), larger residential buildings (both rental and coops and condominiums) ("Class 2"), utilities ("Class 3"), and commercial property ("Class 4"), and allowed each class to be assessed at different percentages of estimated market value. The two different assessment systems, one for New York City and Nassau County and one for the rest of the State, were the result of a comprise between Governor Carey's desire for full value assessment and the State Senate's aim of making as few changes to assessment practices as possible.

S7000A set up a class share system to allocate the tax levy among the classes. The system used 1981 as the base year for the class shares, perpetuating the tax advantage Class 1 properties accumulated up to that year.[27] The class shares are adjusted each year for changes to each tax class' share of market value due to relative market value growth. Shares are further adjusted for physical changes such as new construction, demolition, restoration of properties to the assessment roll, and properties moving from one tax class to another. Additionally, the City Council could increase or decrease the resulting class shares by up to five percent.[28] The City Council used its discretion to favor Class 1. [29]

At the same time it provided City Council discretion on class shares, S7000A required ORPTS to survey market values every two years, and adjust class shares based on changes in the market value represented by each class.[30] By 1989, ORPTS had completed no surveys and market value shares had remained at their 1981 level, favoring Class 1, which had appreciated faster than the other classes. In 1989, the State Legislature put in place the current class share system by re-setting the base year for the calculation to City Fiscal Year 1990, essentially preserving the status quo at the time. The annual growth rate of class shares was capped at five percent. The City may request legislative authorization from the State to lower the class share cap below five percent and the City Council has the discretion to distribute the excess share to other tax classes.

To the benefit of Class 1 properties, S7000A capped the growth of assessed values due to market conditions (so-called equalization changes) at no more than six percent in any one year, or no more than 20 percent cumulatively over any five years.[31]

S7000A also provided a tax advantage to buildings held in coop and condo form through Section 581 of RPTL, which requires the City to value those properties as if they were rental properties, rather than by looking at the recent

25 Act of Dec. 3, 1981, ch. 1057, 1981 N.Y. Laws 219 (McKinney). The governor vetoed the proposed legislation. Governor's Veto Memorandum I 15, reprinted in 1981 N.Y. LEGIS. ANN. 622, but the legislature overrode the veto and adopted the measure. Id. Governor Carey's statement warned of preferential treatment for homeowners.

26 In New York State full value assessments were mandated by statute, but not enshrined in the State's Constitution. See N.Y. REAL PROP. TAX LAW, supra note 25 at § 306; Hellerstein, supra note. This allowed the Legislature to avoid the Hellerstein decision simply by modifying New York's Property Tax Law to allow for fractional assessment, as it did with S7000A.

27 IBO: Twenty-Five Years After S7000A, supra note 9 at 18 – 19 (2006); New York Public Interest Research Group, City of Unequal Neighbors: A Study of Residential Property Tax Assessments in New York City 32 (1981).

28 Id.; see also Governor's Bill Jacket, S7000A, Letter from the State Board of Equalization and Assessment, November 5, 1981, p. 23-24 (spelling out Article 18 provisions of S7000A for New York City and Nassau County).

29 IBO: Twenty-Five Years After S7000A, supra note 9 at 17.

30 Act of Dec. 3, 1981, ch. 1057, 1981 N.Y. Laws 223 (McKinney), codified at §1804(3); see also Governor's Bill Jacket, S7000A, Letter from the State Board of Equalization and Assessment, November 5, 1981, p. 27 (laying out administrative implications of the enactment of the bill).

31 See N.Y. REAL PROP. TAX LAW § 1805(1). (McKinney). ("The assessor of any special assessing unit shall not increase the assessment of any individual parcel classified in class one in any year, as measured from the assessment on the previous year's assessment roll, by more than six percent and should not increase such assessment by more than twenty percent in any five-year period.") Assessment increases due to physical improvements to a property are not subject to the cap.

sales of comparable units.[32] Specifically, Section 581 states: "Notwithstanding any other provision of law, real property owned or leased by a coop corporation or on a condominium basis shall be assessed for purposes of this chapter at a sum not exceeding the assessment which would be placed upon such parcel were the parcel not owned or leased by a coop corporation or on a condominium basis."[33]

To satisfy Section 581, the New York City Department of Finance (DOF) identifies comparable rental buildings, based on factors such as location, amenities, and size. DOF then uses the net rental income of the comparable properties (or gross rental income for smaller buildings in Class 2) to determine the value of coop and condo buildings. In practice, this statutory requirement results in undervaluation of new and high-priced buildings that lack an appropriate set of comparable rental properties.[34]

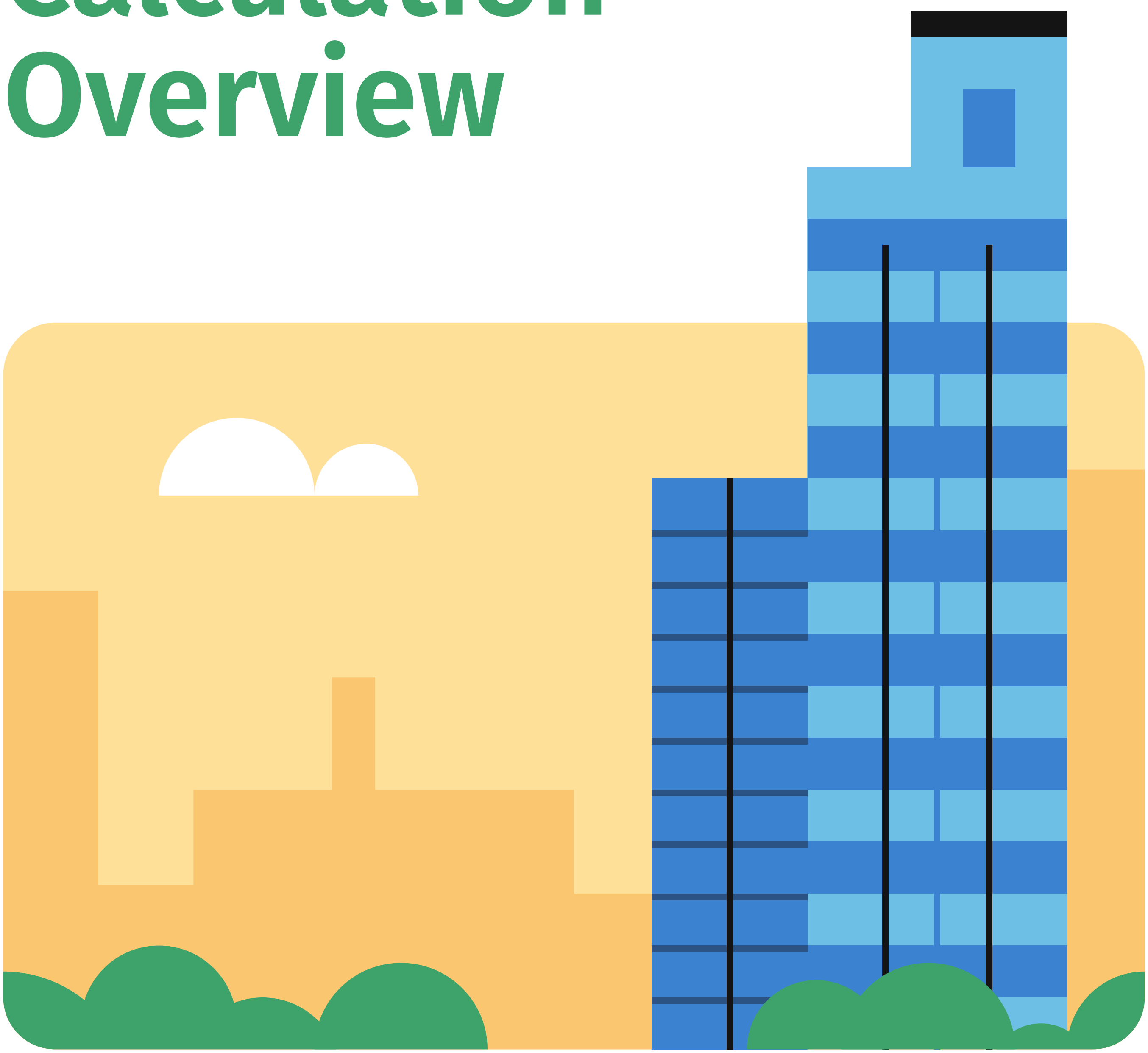
In the early 1990s, Assessed Value growth caps were enacted for rental buildings of four to 10 units and coop and condo buildings with two to 10 units, which apply to equalization changes only (not changes due to physical alterations). The caps are set at no more than eight percent over one year, or no more than 30 percent cumulatively over any five years.[35] In addition, in 1996, the State Legislature created the Coop-Condo Tax Abatement, intended to better align taxation of Class 2 buildings held in coop or condo form with Class 1.[36] Currently, this abatement is only available to primary resident owners.[37]

In addition to the Coop-Condo Tax Abatement, NYS tax law contains a variety of other tax expenditure programs providing tax exemptions and abatements. The purpose of the programs include providing tax relief to property owners based on income, age, disability, and veteran status.[38] They also provide property tax breaks to businesses for economic development and to developers for the development and rehabilitation of multifamily housing.

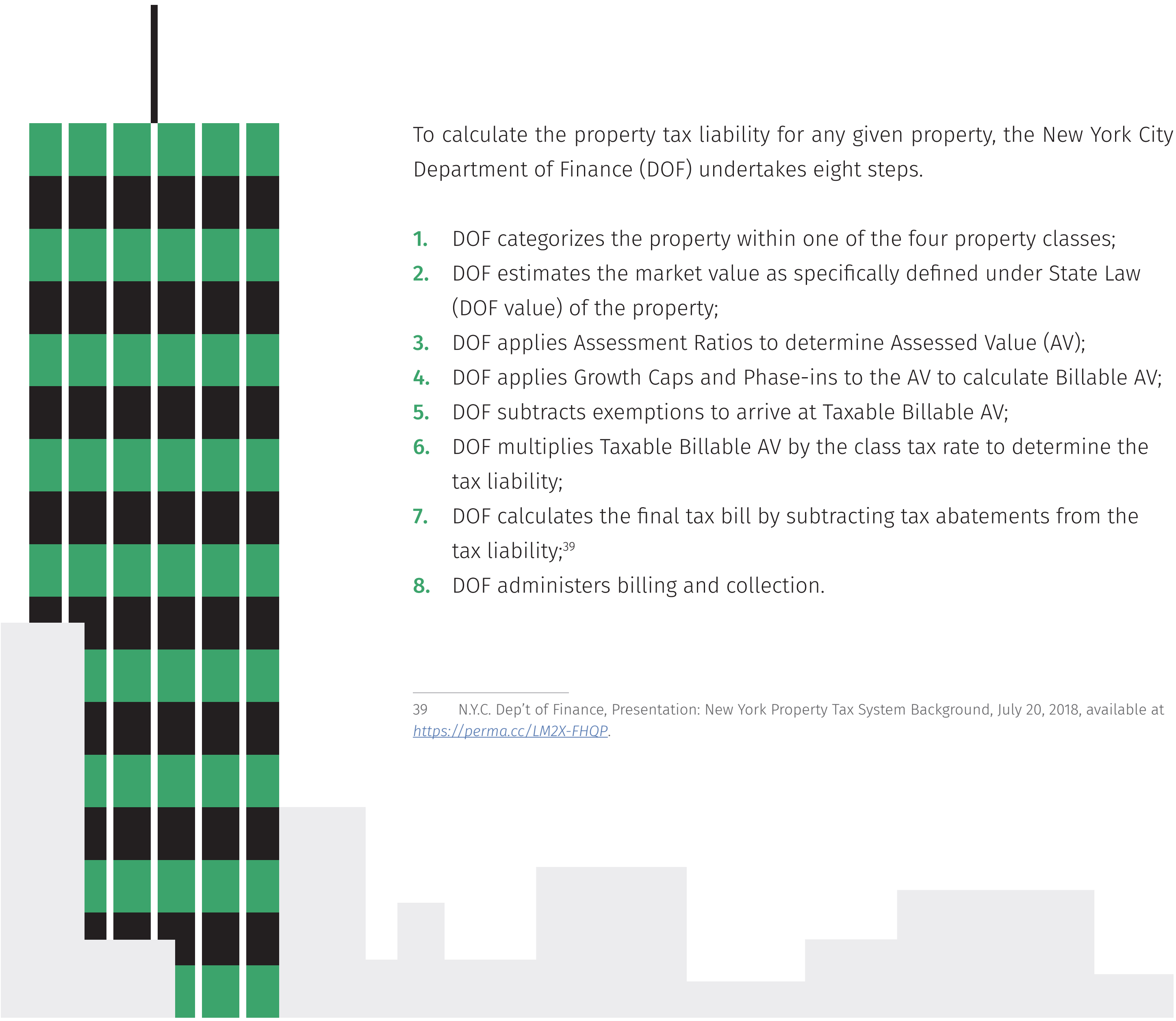
32 See N.Y. Real Prop. Tax Law §581(1)(a) (McKinney).
33 Id.
34 The IBO estimated that, in 2007, the special valuation method applied to coops and condos resulted in an average market value discount of 77.6 percent See IBO: Twenty-Five Years After S7000A, supra note 9 at 17, 32-33, 43 See also *https://ibo.nyc.ny.us/iboreports/coopcondo2013.pdf*.
35 *http://pjsc.magikcms.com/tax%20guides/CityGuideWeb.pdf*
36 Id.
37 The primary residency requirement for the Coop-Condo Tax Abatement has been upheld in the few court cases where it was challenged.
38 See N.Y. REAL PROP. TAX LAW §§458, 458-a, 459-c, 467, 467-b, 467-c. *https://www1.nyc.gov/site/rentfreeze/tools/scrie-applications.page*, *https://www1.nyc.gov/site/rentfreeze/tools/drie-forms.page*; N.Y. REAL PROP. TAX LAW §421-a (McKinney 2015), replaced by Affordable New York Housing Program, N.Y. REAL PROP. TAX LAW §421-a (McKinney 2018); see also N.Y. City Admin. Code §11-243 (1996 & Supp. 2009) (where the J-51 benefit is now codified); N.Y. REAL PROP. TAX LAW §489-aaaa – §489-llll and §489-aaaaaa – §489-kkkkkk, and N.Y. City Admin. Code §11-256 - §11-267 and §11-268 - §11-278.

Section 3

The Current Property Tax System: Calculation Overview



The Current Property Tax System: Calculation Overview



To calculate the property tax liability for any given property, the New York City Department of Finance (DOF) undertakes eight steps.

1. DOF categorizes the property within one of the four property classes;
2. DOF estimates the market value as specifically defined under State Law (DOF value) of the property;
3. DOF applies Assessment Ratios to determine Assessed Value (AV);
4. DOF applies Growth Caps and Phase-ins to the AV to calculate Billable AV;
5. DOF subtracts exemptions to arrive at Taxable Billable AV;
6. DOF multiplies Taxable Billable AV by the class tax rate to determine the tax liability;
7. DOF calculates the final tax bill by subtracting tax abatements from the tax liability;[39]
8. DOF administers billing and collection.

39 N.Y.C. Dep't of Finance, Presentation: New York Property Tax System Background, July 20, 2018, available at https://perma.cc/LM2X-FHQP.

Step 1: Classification of the Property into One of the Four Classes

Class 1 originally consisted of 1-3 family homes, but over time, small condo developments and other property types were added by statute, including some types of mixed-use properties, bungalows and vacant land.[40] Class 2 consists of all other residential properties not in Class 1, such as rental buildings, coops and condos. Class 3 includes property of regulated utilities and special franchise properties they hold, such as cable television providers that place their equipment on or under City streets. Class 4 consists of all other properties, which range from gas stations and stores, to factories and warehouses, to hotels and office skyscrapers.[41]

Table 1 summarizes the distribution of taxable parcels and residential units among the four classes.

Table 1: Universe of Taxable Parcels, FY 2019

Tax Class	Property Type	Parcels	Residential Units
1	1-3 Family Homes	703,206	1,095,061
2	Rental Buildings, Coops, Condos	670,500	1,921,292
3	Utilities	290	-
4	Commercial	97,571	-
Total		1,471,567	

Source: New York City Department of Finance, Division of Tax Policy Analytical File
Notes: Restricted to taxable billable properties. Class 1 also includes several other small residential property types. Excludes Class 2 condos smaller than 100 square feet (e.g., storage units, parking). Vacant land is in Class 1 or Class 4; Class 4 includes some utilities. A parcel is defined as a unit for coops and as a tax lot for all other property types (with tax lot defined as unique combination of borough, block and lot identifiers, or a "BBL").

40 Act of Dec. 3, 1981, ch. 1057, 1981 N.Y. Laws 220 (McKinney), codified at §1802; Governor's Bill Jacket, p. 31; IBO: Twenty-Five Years After §7000A, supra note at 15.

41 For a detailed definition of tax classes, see NYC DOF Annual Report of the New York City Property Tax, Fiscal Year 2018, Appendix A, https://www1.nyc.gov/assets/finance/downloads/pdf/reports/reports-property-tax/nyc_property_fy18.pdf

Step 2: Estimation of DOF Value

DOF estimates the value of a property through a variety of generally accepted methods, depending upon the type of property. There are four main approaches:[42]

1. *Comparable Sales*: Determines value based on recent sales of comparable properties.
2. *Net Income Capitalization*: Determines value based on the ratio between a property's current net income and a capitalization rate, which is designed to approximate an investor's expected annual rate of return on an income-producing property.
3. *Gross Income Multiplier*: Determines value based on a multiple of gross income.
4. *Cost*: Estimates value using the value of the land plus the cost of constructing the buildings and other improvements on the land, adjusted for depreciation. This approach is used for utilities. The valuation of special franchise property is determined by the New York State Office of Real Property Tax Services (ORPTS).

Table 2 summarizes DOF valuation methods by property type.

Table 2: DOF Valuation Methods

Tax Class	Property Type	Methodology for Computing DOF Value
1	1-3 Family Homes	Comparable Sales
2	Cooperatives and Condominiums (11+ Units)	Net Income Capitalization of Comparable Rental Income
	Large Rentals (11+ Units)	Net Income Capitalization
2A/2B	Small Rentals (4-10 Units)	Gross Income Multiplier Based on Available Rental Income
2C	Small Cooperatives and Condominiums (2-10 Units)	Gross Income Multiplier Based on Comparable Rental Income
3	Utilities	Cost (valuation of special franchise property determined by ORPTS)
4	Commercial Property	Net Income Capitalization

Source: New York City Department of Finance, Presentation: New York Property Tax System Background, July 20, 2018, available at https://perma.cc/LM2X-FHQP

42 N.Y.C. Dep't of Finance, Presentation: New York Property Tax System Background, July 20, 2018, available at https://perma.cc/LM2X-FHQP.

There are multiple legal constraints that DOF faces in valuing different property types:

- Section 581 of the New York State Real Property Tax Law (RPTL) requires that coops and condos be valued as if they were rental properties.[43] This can result in undervaluation, especially for high-end parcels, due to difficulty in finding appropriate comparable rental buildings. Additionally, comparable rental buildings may have income constrained by rent stabilization laws, which further contributes to undervaluation.
- Most 2A/2B small rentals are not legally required to file detailed accountings of income and expenses. Therefore, income is estimated from parcels that do file, and a multiplier is derived from typical sales within a neighborhood.
- The courts have found the use of anticipated future expected income (i.e., discounted cash flow method) to value income-producing properties as speculative and have expressed a preference for the direct capitalization of current earned income. The mass appraisal DOF conducts for commercial properties is consistent with the court's preference and uses current income to derive capitalization rates. These rates are higher than market capitalization rates utilized by single-parcel appraisers and less likely to be challenged. Market capitalization rates include speculative purchases made with the intention of building conversion, renovation, and/or increases in resale value, which DOF does not incorporate into its valuations. Moreover, DOF does not receive detailed lease structure information from commercial properties, which can affect a parcel's market sale price by constraining future income.
- DOF derives capitalization rates for large apartment buildings in a similar manner to commercial properties. Lease structures may play a lesser role in determining a large rental building's market sale price, given the short-term nature of the leases. The anticipated stability of the income stream may be considered in deriving a capitalization rate; however, developing mass appraisal assumptions about expectations of future income increases, which are characteristic of speculative purchases involving renovations or conversions, is problematic and not favored by the courts.

Step 3: Application of Assessment Ratios (Actual AV)

The calculation of taxable value starts by multiplying Assessment Ratios by DOF value to obtain Actual AVs. The DOF Commissioner has the discretion to set the Assessment Ratios within each class.[44] Between 1991 and 2007 the Assessment Ratio for Class 1 was eight percent; in 2007 the Commissioner lowered the Class 1 ratio to six percent, and it has remained at this level. The Assessment Ratio for all other classes is 45 percent, as shown in Table 3.

Step 4: Application of Caps and Phase-ins (Transitional and Billable AV)

The property tax system contains AV Growth Caps and Phase-ins to smooth tax fluctuations. Table 3 details the rules for application of these Growth Caps and Phase-ins by tax class.

Class 1 and Class 2A/2B/2C[45] properties are governed by AV Growth Caps, which are applied to changes derived from market conditions (equalization) as opposed to physical changes. Caps are more stringent for Class 1 (six percent in a single year or 20 percent over five years) than for small apartment buildings in Class 2 (eight percent in a single year or 30 percent over five years). Increases derived from physical changes made to properties are not phased in, become taxable immediately and are not subject to AV Growth Caps. However, the Assessment Ratio of physical additions and improvements for small Class 2 properties is 15 percent instead of 45 percent. The result of these calculations is the Billable AV.

43 See text accompanying n. 32.

44 N.Y.C. Dep't of Finance, Presentation: New York Property Tax System Background, July 20, 2018, available at *https://perma.cc/LM2X-FHQP*.

45 Class 2A/2B/2C refers to small rental buildings with 4-6 units, small rental buildings with 7-10 units, and small coop and condo buildings with 2-10 units, respectively.

For all other Class 2 and Class 4 properties, changes in Actual AVs driven by market conditions (equalization changes) phase in over five years, which creates Transitional AVs. The phase-in means that current year Transitional AV includes 20 percent of equalization changes from the preceding year's assessment as well as 20 percent of equalization changes from each of the previous four years. Value from physical changes to the properties is not phased in and is added to Actual and Transitional AVs at the assessment ratio of 45 percent.

Table 3: Assessment Ratios, AV Growth Caps, and AV Phase-in Rules by Property Type

Tax Class	Property Type	Target Assessment Ratio (Assessed to DOF Value)	Assessment Rules: Caps and Phase-ins
1	1-3 Family Homes	6%	AV is set to a maximum of 6% of DOF Value, subject to caps on AV growth from equalization changes of 6% annually or 20% over 5 years.
2	Coops and Condos (11+ Units)	45%	Actual AV is 45% of DOF Value. Transitional AV reflects growth from DOF value changes phased-in over 5 years. If Actual AV after actual exemptions is less than the Transitional AV after transitional exemptions, then Billable AV is set to Actual AV. Otherwise Billable AV is set to Transitional AV.
	Large Rentals (11+ Units)		
2A/2B	Small Rentals (4-10 Units)		AV is set to a maximum of 45% of DOF Value, subject to caps on AV growth from equalization changes of 8% annually or 30% over 5 years.
2C	Small Coops and Condos (2-10 Units)		
3	Utilities		AV is 45% of Value.
4	Commercial		Actual AV is 45% of DOF Value. Transitional AV reflects growth from market value changes phased-in over 5 years. If Actual AV after actual exemptions is less than the Transitional AV after transitional exemptions, then Billable AV is set to Actual AV. Otherwise Billable AV is set to transitional AV.

Step 5: Subtraction of Exemptions (Taxable Billable AV)

Various laws provide a wide array of real property tax exemptions for a variety of purposes. The major categories are housing development, economic development, and individual assistance. For example, housing development programs include exemptions granted for the development of multiple dwellings (e.g., the 421-a and Affordable New York programs) and their rehabilitation (e.g., the J-51 program). Economic development exemptions include similar programs targeted at commercial buildings (e.g., the Industrial and Commercial Abatement Program).

Exemptions are subtracted from Billable AVs to obtain Taxable Billable AVs, resulting in a lower taxable value.[46]

Step 6: Class Tax Rates and Class Shares

Taxable Billable AVs are multiplied by the class-specific tax rates to obtain the tax liability.

The overall New York City property tax rate is set annually as part of New York City's budget process as specified in the New York City Charter. Section 1516 of the NYC Charter states:

> ***Fixing of tax rates**. a. The council shall fix the annual tax rates immediately upon the approval of the budget pursuant to section two hundred fifty-four. The council shall deduct the total amount of receipts as estimated by the mayor from the amount of the budget, for the ensuing fiscal year, and shall cause to be raised by tax on real property such sum as shall be as nearly as possible but not less than, the balance so arrived at, by fixing tax rates in cents and thousandths of a cent upon each dollar of assessed valuation. The tax rates shall be such to produce a balanced budget within generally accepted accounting principles for municipalities.*

Article VIII, Section 10(e) of the New York State Constitution imposes a limit to the amount of property tax to fund operating expenses (excluding debt service). The limit is 2.5 percent of total market value of all property in the City averaged over the previous five years, based on full market valuations estimated by ORPTS.

The tax rate is applied to the total Taxable Billable AV to raise the necessary funds to balance the budget after all other revenues are determined. As a matter of policy choice, the property tax rate does not change often. In recent history, the City raised the rate from 10.366 percent to 12.283 percent (or, equivalently, to $12.283 per $100 of AV) in January 2003. The

46 The taxable billable assessed value is sent to the taxpayer, who may file a request for independent review by the City's Tax Commission, an agency separate from the Department of Finance. See https://www1.nyc.gov/site/taxcommission/about/challenging-notice-of-property-value.page; https://www1.nyc.gov/site/taxcommission/reports/reductions.page.

rate was lowered to 11.423 percent for New York City Fiscal Year (FY) 2008 and raised back to 12.283 percent in the second half of FY 2009 (January 2009). The rate has not changed since.[47]

The overall tax rate is a weighted average of class-specific tax rates, with weights given by each class' share of the levy; as such, it is not a tax rate applied directly to an individual's bill. The steps below provide a simplified version of the calculations that determine the tax rates reported in the tax bills:[48]

i. Class change in market value (MV) share = MV Share current FY / MV Share FY 1990

This step calculates the percentage change of each class MV[49] share relative to FY 1990.

ii. Current Base Proportion (CBP) = Class share FY 1991 x Class change in MV share

In general, classes that gain market value share (from step i) see an increase in their class share. The formula reported above calculates the CBP, which cannot grow in excess of five percent of the preceding year's class share (unless state legislation sets a different percentage). Note that these calculations are only affected by market value estimates, not by AVs and associated ratios, caps, phase-ins, and exemptions.

iii. Class Share = CBP plus adjustments for physical changes

This step determines the share of the levy attributable to each class. The CBP is adjusted for physical changes within the class (new development, demolition, and alterations) to arrive at the Adjusted Base Proportion (ABP), also known as the Class Share.

iv. Total Levy = Total Taxable Billable AV x Overall Tax Rate (12.283%)

This step determines the total amount of levy.

v. Class Levy = Total Levy x Class Share
This step allocates the total levy proportionally to each class' share.

vi.Class Tax Rate = Class Levy / Class Taxable Billable AV

The class rate is determined dividing the class levy by the class Taxable Billable AV. Taxable Billable AVs are determined by DOF in May of each year in the final assessment roll. Other things equal, class tax rates increase if the class levy grows faster than the class Taxable Billable AV (e.g., because of market values changes, AV Growth Caps, exemptions, etc.).

In City Fiscal Year 2020, the property tax rates are:

- Class 1: 21.167%
- Class 2: 12.473%
- Class 3: 12.536%
- Class 4: 10.537%[50]

47 See NYC Office of Management and Budget (2019) Tax Revenue Forecasting Documentation, Financial Plan FY 2017-2021, I-6, https://www1.nyc.gov/assets/omb/downloads/pdf/methodology-2019-05.pdf for the history of tax rates from FY83 to FY19.

48 The detailed calculations are available in NYC Office of Management and Budget (2019) Tax Revenue Forecasting Documentation, Financial Plan FY 2017-2021, pp.23-25, https://www1.nyc.gov/assets/omb/downloads/pdf/methodology-2019-05.pdf

49 The market value is determined by dividing the taxable billable assessed value for each class from the prior year's assessment roll by ORPTS published class equalization rates for that roll. The detailed calculations are available in NYC Office of Management and Budget (2019) Tax Revenue Forecasting Documentation, Financial Plan FY 2017-2021, p. 24.

50 N.Y.C. Dep't Finance, Property Tax Rates, available at https://www1.nyc.gov/site/finance/taxes/property-tax-rates.page.

Table 4: Historical Property Tax Rates, FY 2005 – FY 2020

Fiscal Year	Overall	Class 1	Class 2	Class 3	Class 4
2005	12.283	15.094	12.216	12.553	11.558
2006	12.283	15.746	12.396	12.309	11.306
2007	12.283	16.118	12.737	12.007	10.997
2008	11.423	15.434	11.928	11.577	10.059
2009 1st half	11.423	15.605	12.139	11.698	9.870
2009 2nd half	12.283	16.787	13.053	12.577	10.612
2010	12.283	17.088	13.241	12.743	10.426
2011	12.283	17.364	13.353	12.631	10.312
2012	12.283	18.205	13.433	12.473	10.152
2013	12.283	18.569	13.181	12.477	10.288
2014	12.283	19.191	13.145	11.902	10.323
2015	12.283	19.157	12.855	11.125	10.684
2016	12.283	19.554	12.883	10.813	10.656
2017	12.283	19.991	12.892	10.934	10.574
2018	12.283	20.385	12.719	11.891	10.514
2019	12.283	20.919	12.612	12.093	10.514
2020	12.283	21.167	12.473	12.536	10.537

Source: https://www1.nyc.gov/site/finance/taxes/property-tax-rates.page

It is important to note that class tax rates are not a direct measure of tax burden because Assessment Ratios and valuation methodologies differ by class.

Step 7: Subtraction of Abatements

Abatements differ from exemptions. While exemptions reduce the Taxable Billable AV, abatements, on the other hand, are a dollar-for-dollar tax reduction (if a taxpayer is eligible for a $1,000 abatement, it is applied by subtracting $1,000 from the tax bill). The final property tax bill is determined by the Taxable Billable AV multiplied by the applicable tax rate, less any abatements that an owner is entitled to receive. There are major abatement programs for housing rehabilitation (J-51), economic development (Industrial and Commercial Abatement Program), as well as for individual assistance including the Coop-Condo Tax Abatement.

Step 8: Billing and Collection

The property tax year begins in July, the same as the City's fiscal year. If the City's budget for the new fiscal year is not adopted by June 5th, DOF bills taxpayers based on prior-year tax rates.[51] The setting of rates can also be delayed if state legislation is enacted to cap class share changes at a level lower than the five percent cap applicable to the annual growth rate of class shares. Such legislation has been enacted in many years to at least partially prevent the shifting of the

51 N.Y.C. Independent Budget Office, Legal And Practical Implications of the City Council Formulating and Adopting The City Budget, available at *https://ibo.nyc.ny.us/iboreports/budg99imps.html*

City's property tax levy to residential properties. A billing adjustment is made later in the year, after the tax rates for the fiscal year are set. This mid-year adjustment is often a source of confusion to property owners.

For properties with AVs of $250,000 or less, property tax bills are due quarterly per statute, whereas for properties with AVs greater than $250,000, bills are due semi-annually.[52] Bills are generally mailed and posted on DOF's website a month before taxes are due. Bills are not mailed if property taxes are paid through a bank or mortgage servicing company, or if the account balance is zero. However, all bills are available on DOF's website. Starting in January 2020, eligible property owners can sign up for monthly payment plans, which include features such as automatic payment deductions, payment reminders, and receipts.

When a property tax bill is paid late, interest is incurred. Interest rates are set annually by local law. The interest rate for a late payment depends on the AV of the property; currently, interest is seven percent for parcels with AVs of less than $250,000, and 18 percent for parcels with AVs of at least $250,000.[53]

In 2019, in collaboration with the City Council, DOF established the Property Tax and Interest Deferral (PT AID) program[54] because an unexpected event or hardship may make it difficult to pay property taxes. Owners who qualify for PT AID can defer property tax payments and remain in their homes. The payment of property taxes can be deferred for a fixed length of time for a temporary hardship, or for a longer period due to a chronic hardship. The amount deferred is limited to the maximum of 25 percent of the equity for 1-3 family homes, or 50 percent for condos. There is also a deferral cap at which point a property owner will not be permitted to defer the payment of additional taxes. Unpaid debt continues to accrue interest.

Eventually, unpaid property tax bills may become tax liens that may be sold in a tax lien sale.[55] Before a lien is sold, DOF sends at least four notices informing owners of unpaid bills and the possibility of the lien being sold, and DOF conducts outreach campaigns to help property owners avoid the sale. The number of liens sold each year is small compared to the more than one million properties that pay property taxes. In 2019, 22,000 parcels were sent a 90-day notice letter from the DOF. Of these, approximately 3,700 liens were sold. Since 2016, the number of parcels receiving a 90-day notice and the number of liens that were sold have remained fairly constant.

52 N.Y.C. Dep't Finance, Property Tax Due Dates, available at https://www1.nyc.gov/site/finance/taxes/property-due-dates.page
53 N.Y.C. Dep't Finance, Property Tax Late Payments, available at https://www1.nyc.gov/site/finance/taxes/property-late-payments.page
54 N.Y.C. Dep't Finance, Property Tax and Interest Deferral (PT AID) Program, available at https://www1.nyc.gov/site/finance/taxes/pt-aid.page
55 N.Y.C. Dep't Finance, Property Tax Lien Sales, available at https://www1.nyc.gov/site/finance/taxes/property-lien-sales.page

Section 4

System Challenges and Issues Addressed in Reform

System Challenges and Issues Addressed in Reform

In announcing the formation of the Commission both Mayor de Blasio and Speaker Johnson spoke of a tax system that seemed “unfair,” “too opaque,” and “which has long perplexed the public.”[56] In this vein, the Commission’s mandate was to review the current property tax system with an eye towards increasing fairness, transparency and simplicity. In addition, the Commission undertook this review with an understanding that the tax, both in its new form and in the transition process, should not displace City residents and should not cause undue disruption to owners. This section considers these principles of fairness, transparency and simplicity, and highlights ways in which the Commission believes that the current system fails these principles. The Commission also connects these principles to each of its initial recommendations to illustrate how they correspond to the Commission’s mandate.

This section details the methodology and challenges in the current property tax system as it relates to property valuation, Assessed Value (AV) Growth Caps, tax rates and class shares, exemptions and abatements and Effective Tax Rates (ETRs). Each sub-section is concluded with an explanation on how elements of the current system do not comport with the principles of fairness and transparency.

Fairness

Important to the credibility of a good property tax system is a sense that the system is fair and equitable. The principle of horizontal equity requires that properties of similar value be taxed similarly, in part by being valued and assessed professionally and credibly. A sense of fairness also guides when and how a tax system deviates from horizontal equity. For example, there should be an explicit policy rationale, such as moderating taxes for homeowners whose property tax may have become overly burdensome (e.g. low-income households, seniors on fixed incomes, veterans, etc.).

The current system is not fair. Among the most salient reasons for that unfairness is the uneven share of market value captured among coops and condos because of state law requirements on their valuation, and AV Growth Caps which distort the relationship between the amount of taxes paid relative to a property’s value across neighborhoods.

Transparency and Simplicity

Transparency is a guiding principle of any sound tax system: the tax should be easy to understand and clearly administered. This not only ensures tax bills are accurate but also instills trust in the system from the taxpayer’s perspective. For a property tax to meet this goal, it should have an easily understood definition of what the value of a property is and a tax rate that appears on a taxpayer’s bill determining the amount owed.

The current system is not transparent or simple to understand. While some properties are assessed on a sales-

56 Press Release, “Mayor de Blasio And Speaker Johnson Announce Advisory Commission To Recommend Reforms To New York City’s Property Tax System,” May 31, 2018

based valuation method that taxpayers can compare to actual market transactions, other properties are not. An owner of a 1-3 family home can form a realistic expectation about changes in property values from information available in the media, real estate websites and other informal avenues, but coop and condo owners cannot because DOF is required by law to use comparable rental income information to value these properties. In addition, while the overall property tax rate is set by policymakers and has been stable for a decade, this rate is not the one taxpayers see on their bill. Instead, statutory formulas and the class share system determine a different class rate each year in ways that are very difficult for taxpayers to understand.

I. Estimation of Market Value (DOF Value)

This sub-section demonstrates for each of the main property types how the industry standard for mass valuations compares to the current method DOF uses, and how the different methodologies (dictated by legal restrictions) may lead to the conclusion that the system is unfair and opaque. For selected property types, there is also an analysis of how DOF values presently used in the calculation of tax bills compare to those generated under sales-based valuation methods that rely on recent market transactions. While these sales-based values may not be appropriate for all property types based on current industry standards, they are useful in providing a common denominator for comparing relative tax burdens among property classes and among properties of differing values within the same class. For this purpose, the Commission requested the development of sales-based market value estimates for all taxable properties (except for utilities). The comparisons presented below rely on these estimates.

Class 1

The International Association of Assessing Officers (IAAO), which sets guidelines for mass appraisal methodology, recommends the Comparable Sales Approach for the valuation of houses for which a sufficient number of comparable sales are available.[57] This is the current approach DOF uses to value Class 1 properties.

57 IAAO International Standards at 13, 16, *https://www.iaao.org/media/Standards/International_Guidance.pdf*

DOF uses information from recorded real property transfers to identify recent market sales and then adjusts all sale prices to reflect market conditions as of the taxable status date for a given fiscal year. Statistical regression models are used to determine factors deemed to affect sale price such as location, size, age, style and other physical and functional characteristics. Using these factors, DOF estimates market value using prices from comparable properties whose characteristics are most similar to the subject property. In this methodology, unfairness may result from the lack of appropriate comparable sales data, but not from the method itself.

Class 2 Coops

IAAO also recommends the use of comparable sales to value coops where sales data are sufficient. However, as previously noted, Section 581 of the New York State Real Property Tax Law requires that coops (and condos) be valued as if they were rental properties. Therefore, to comply with New York State law, assessors impute rental income based upon rents received in comparable rental buildings.[58] There is considerable evidence that this has resulted in the undervaluation of coop properties relative to sales-based market value, in part because (depending on the age and location of the coop building being valued), comparable buildings may fall under rent stabilization laws and regulations that constrain rental income.[59]

Table 5 shows that DOF values capture a relatively small share of the sales-based market value of coop units. The typical (median) coop carries a DOF value of 25 percent of the sales-based market value. There is variation by borough: DOF captures the smallest share of sales-based market value in Brooklyn (0.21) and the largest share in the Bronx (0.32).

Table 5: Ratio of DOF Value to Sales-Based Market Value by Borough, Coops FY 2019

Borough	Number of Parcels	Ratio of DOF Value to Sales-Based Market Value		
		25th Percentile	Median	75th Percentile
Manhattan	169,128	0.18	0.23	0.28
Bronx	30,327	0.25	0.32	0.41
Brooklyn	69,577	0.16	0.21	0.28
Queens	105,632	0.23	0.27	0.34
Staten Island	1,971	0.18	0.26	0.32
Total	376,635	0.19	0.25	0.31

Source: New York City Department of Finance, Division of Tax Policy Analytical File
Notes: Restricted to taxable billable properties. A parcel is defined as a coop unit.

58 See, e.g. Bd. of Managers v. Assessor, City of Buffalo, 156 A.D.3d 1322, 1323, 68 N.Y.S.3d 238, 239–40 (N.Y. App. Div. 2017) ("RPTL §581 has been "construed to mean that 'condominiums … [should] be assessed as if they were conventional apartment houses whose occupants were rent paying tenants'".

59 See, e.g. Greentree at Lynbrook Condo. No. 1 v. Bd. of Assessors of Vill. of Lynbrook, 81 N.Y.2d 1036, 1039, 616 N.E.2d 850, 851 (1993) (holding that condominiums should be assessed as rent stabilized as analogous rental apartment buildings in municipality were subject to rent stabilization).

Table 6 shows DOF values capture a decreasing share of coop unit sales-based market value as that value increases, in part due to the difficulty of finding appropriate comparable rental properties for very high-end properties. The median ratio of DOF value to sales-based market value decreases from 0.49 for coop units with sales-based market values less than $100,000 to 0.10 for units valued greater than $10,000,000.

Table 6: Ratio of DOF Value to Sales-Based Market Value by Sales-Based Market Value Category, Coops FY 2019

Sales-Based Market Value Category	Number of Parcels	Median DOF Value to Sales-Based Market Value Ratio
Less Than $100K	7,544	0.49
$100K to $150K	18,908	0.37
$150K to $200K	30,667	0.31
$200K to $250K	36,799	0.28
$250K to $300K	38,939	0.26
$300K to $400K	48,355	0.24
$400K to $500K	30,708	0.22
$500K to $750K	50,825	0.23
$750K to $1M	34,867	0.23
$1M to $2.5M	55,064	0.21
$2.5M to $5M	17,689	0.18
$5M to $7.5M	3,857	0.14
$7.5M to $10M	1,320	0.13
$10M or More	1,093	0.10
Total	376,635	0.25

Source: New York City Department of Finance, Division of Tax Policy Analytical File.
Notes: Restricted to taxable billable properties. A parcel is defined as a coop unit.

Class 2 Condos

Similarly, the IAAO recommends the use of comparable sales to value condos where sales data are sufficient, but DOF is constrained by NYS law in valuing condos as if they were rental properties instead of using actual transaction prices.

Table 7 shows that DOF value generally captures only a portion of the sales-based market value of condo parcels. For the median condo in New York City, DOF value captures 20 percent of sales-based market value. The median share ranges from 18 percent in Brooklyn and Queens to 34 percent in the Bronx.

Table 7: Ratio of DOF Value to Sales-Based Market Value by Borough, Class 2 Condos FY 2019

Borough	Number of Parcels	Ratio of DOF Value to Sales-Based Market Value		
		25th Percentile	Median	75th Percentile
Manhattan	99,802	0.16	0.20	0.24
Bronx	14,219	0.27	0.34	0.41
Brooklyn	40,783	0.14	0.18	0.25
Queens	27,122	0.15	0.18	0.24
Staten Island	2,855	0.17	0.23	0.29
Total	184,781	0.15	0.20	0.26

Source: New York City Department of Finance, Division of Tax Policy Analytical File
Notes: Restricted to taxable billable properties, excluding Class 2 condos smaller than 100 square feet (e.g., storage units, parking).

Table 8: Ratio of DOF Value to Sales-Based Market Value by Sales-Based Market Value Category, Class 2 Condos FY 2019

Sales-Based Market Value Category	Number of Parcels	Median DOF Value to Sales-Based Market Value Ratio
Less Than $100K	1,370	0.34
$100K to $150K	9,828	0.37
$150K to $200K	1,873	0.33
$200K to $250K	3,753	0.31
$250K to $300K	3,417	0.24
$300K to $400K	7,052	0.22
$400K to $500K	9,913	0.21
$500K to $750K	31,449	0.21
$750K to $1M	27,172	0.21
$1M to $2.5M	62,132	0.19
$2.5M to $5M	18,398	0.17
$5M to $7.5M	4,634	0.15
$7.5M to $10M	1,620	0.13
$10M or More	2,170	0.10
Total	184,781	0.20

Source: New York City Department of Finance, Division of Tax Policy Analytical File
Notes: Restricted to taxable billable properties, excluding Class 2 condos smaller than 100 square feet (e.g., storage units, parking).

As with coop units, DOF values capture a decreasing share of sales-based market value of a condo unit as sales-based market value increases, as shown in Table 8. The results further demonstrate the difficulty of making appropriate matches to comparable rental properties at the very high end of property values. The median ratio of DOF value to sales-based market value decreases from 0.34 for condo units with a sales-based market value less than $100,000, to 0.10 for condo units valued at greater than $10,000,000.

In January 2019, a four-story condo unit in 220 Central Park South sold for the highest amount on record in the United States.[60] The 24,000-square-foot penthouse unit sold for $238,000,000. However, its estimated market value for property tax purposes is $9,370,212. This extreme example illustrates the effects of Section 581 of the New York State Real Property Tax Law, namely, that appropriate comparable rental properties for very high-end condos (and coops) may be difficult to find, resulting in undervaluation. The DOF value for the 220 Central Park South condo captures only 3.9 percent of its sale price.

Since this property is a condo, its AV is determined by multiplying the market value by 45 percent ($9,370,212 x 0.45 = $4,216,595). The amount of property tax is obtained by multiplying the AV by the Class 2 tax rate, 12.612% in FY19. The resulting Effective Tax Rate (ETR, defined as tax bill per $100 of sales-based market value) for this property is $0.22.[61] These calculations are shown in the table below.

Example 1: Condominium Valuation and Tax Calculation, FY 2019

Example Tax Calculation: Condo		
A	Recorded Sale Price	$238,000,000
B	DOF Value (per Section 581)	$9,370,212
C	Assessment Ratio (Class 2)	45%
D=B*C	Assessed Value	$4,216,595
E	Tax Rate (Class 2)	12.612%
F=D*E	Tax Liability	$531,797
G=F/A*$100	Effective Tax Rate per $100	$0.22

If it were, instead, a Class 1 property, DOF would begin with an estimate of market value based on comparable sales. For illustrative purposes, the following table sets the sales-based market value at the transaction price of $238,000,000. The Class 1 Assessment Ratio would be six percent, resulting in an AV of $14,280,000. Applying the FY 2019 Class 1 tax rate of 20.919 percent would result in tax liability of $2,987,233, and an ETR of $1.26.

Example 2: 1-3 Family Home Valuation and Tax Calculation, FY 2019

Example Tax Calculation: 1-3 Family Home		
A	Recorded Sale Price	$238,000,000
B	Sales-Based Market Value	$238,000,000
C	Assessment Ratio (Class 1)	6%
D=B*C	Assessed Value	$14,280,000
E	Tax Rate (Class 1)	20.919%
F=D*E	Tax Liability	$2,987,233
G=F/A*$100	Effective Tax Rate per $100	$1.26

60 Billionaire Ken Griffin Buys America's Most Expensive Home for $238 Million *https://www.wsj.com/articles/billionaire-ken-griffin-buys-americas-most-expensive-home-for-238-million-11548271301*

61 For simplicity, it is assumed that the property is not the owner's primary residence and is therefore not eligible for the coop-condo abatement. Properties with assessed value above $60,000 that are the owner's primary residence qualify for a 17.5 percent abatement of the tax liability, further reducing the Effective Tax Rate.

This example highlights the following general issues with the valuation of coops and condos:

- The market value for tax purposes does not reflect, and is significantly below, the market value based on comparable sales, the IAAO-recommended approach for these properties;[62] and
- The valuation process and tax liability for two residential ownership properties depends on their class assignment and differential fractional assessments.

However, undervaluation does not necessarily mean that coops and condos are under-taxed relative to Class 1 properties. This is because coops and condos have a higher Assessment Ratio (45 percent vs. 6 percent) and those buildings with more than 10 units are not subject to AV Growth Caps. The mildly progressive design of the Coop-Condo Abatement[63] also offsets some of the effects of Section 581, but does so in a blunt and inexact way.

In sum, requiring DOF to value coops and condos as rentals violates the principle of fairness, resulting in a non-uniform undervaluation of these properties. Table 5, for example, shows that the ratio of DOF valuation to sales-based value for coops is approximately 50% higher at the 75th percentile than at the 25th percentile (31 percent vs. 19 percent). Moreover, the undervaluation is regressive, with higher-valued properties generally receiving assessments at a smaller fraction than lower valued properties, as shown in Table 6.

Class 2 Small Rentals

The valuation method recommended by the IAAO for rental properties is an income-based approach or the Comparable Sales Approach, given the availability of reliable income data or sales data.

For small rental buildings (10 or fewer units), DOF currently uses an income-based approach -- the Gross Income Multiplier -- which establishes ratios of value to gross income for comparable properties. Although a measure of value derived from gross income is less refined than that

62 NYU Furman Center, Shifting the Burden: Examining the Undertaxation of Some of the Most Valuable Properties in New York City 2 (July 2013), available at http://furmancenter.org/research/publication/shifting-the-burden.

63 The benefit amount is greater for lower-valued coops and condos. For example, if the average assessed value is $50,000 or less, the benefit amount per year is 28.1%, whereas the benefit amount per year is 17.5% if the average assessed value is $60,001 and above.

derived from net income, DOF does not have reliable net income data since most owners of small rentals are not legally required to file detailed expense data so as to minimize reporting burdens on them. A Gross Income Multiplier is determined by dividing typical sales prices within a neighborhood by typical annual income (from properties that did file a Real Property Income and Expense [RPIE] statement), and is adjusted for growth rates for these properties. This factor is then applied to estimated annual income to derive a value.

Table 9 compares DOF values for small rentals with market values generated instead by using the Comparable Sales Approach. Among all small rentals citywide, for the median property, DOF captures almost half (48 percent) of the sales-based market value. DOF values cover the lowest share of sales-based value in Manhattan (45 percent) and the largest in the Bronx (78 percent).

Table 9: Ratio of DOF Value to Sales-Based Market Value by Borough, Small Rentals FY 2019

Borough	Number of Parcels	Ratio of DOF Value to Sales-Based Market Value		
		25th Percentile	Median	75th Percentile
Manhattan	7,676	0.36	0.45	0.53
Bronx	4,404	0.66	0.78	0.86
Brooklyn	29,113	0.35	0.46	0.58
Queens	11,857	0.42	0.49	0.59
Staten Island	839	0.51	0.70	0.85
Total	53,889	0.38	0.48	0.62

Source: New York City Department of Finance, Division of Tax Policy Analytical File
Note: Restricted to taxable billable properties.

An analysis of recent market transactions indicated substantial sales volume for small rental parcels. For example, between 2013 and 2017, roughly 15 percent of taxable small rentals experienced at least one arm's-length sale, a rate that is in line with 1-3 family properties in New York City over the same period, suggesting sufficient sales data may exist to allow for usage of the Comparable Sales Approach for small rentals.

Class 2 Large Rentals

For larger multifamily properties, the IAAO recommends either the Comparable Sales Approach or an income-based approach, depending on the availability of reliable sales and income data. The preferred method is the Net Income Capitalization Approach, which divides the property's net income by a "capitalization rate" and is designed to approximate an investor's expected annual rate of return on a particular income-producing property to arrive at a property value. IAAO recommends that capitalization rates be derived by comparing actual or estimated incomes to sale prices, when there is sufficient data. In the absence of such data, IAAO suggests using capitalization rates from published sources.

New York City law requires large rental parcels and most other income-producing properties with an AV of more than $40,000 to file RPIE statements annually. These filings are lagged in time; for example, RPIE data for calendar year 2015 was used to estimate market values as of January 2017 (which determined taxes for FY 2018). For this reason, DOF adjusts reported income data to project forward in time. Furthermore, DOF calibrates statistical models to make adjustments accounting for lower reported income resulting from such factors as excessive vacancy, owner-occupancy, below-market leases, and to generally align reported expenses to what is considered normal and acceptable for similar buildings. While annual income and expense data are key inputs for determining a property's net income, the final net operating income used for valuation reflects historical data and trends to stabilize values.

For properties failing to file an RPIE statement, statistical models select income and expense data from comparable buildings based upon physical features and geography, with income adjustments. Assigned incomes for large rentals conforms to statistical guidelines used by IAAO to verify both vertical and horizontal equity.

DOF converts net income into property values for large rentals by using capitalization rates that are a function of income, such that as income increases, the capitalization rate is lower. This ensures that buildings with similar incomes will be assigned similar capitalization rates. In general, DOF capitalization rates are higher than those observable from market transactions. DOF does not use market capitalization rates because DOF is required legally to estimate property values based upon current use, not highest and best use. DOF uses the direct capitalization approach, which is generally accepted by the courts as the appropriate methodology to be used for income producing buildings, wherein current net operating income (including the adjustments described above) is utilized to calculate value as opposed to a discounted cash flow approach that converts multiple years of projected income into a present value by applying a discount rate. DOF increases its capitalization rates by estimated median annual property value changes using repeat sales data, over an assumed holding period (10 years). In this way, DOF captures value derived only from earned income, rather than expected income which may involve a high degree of speculation (e.g., owners intending to convert or renovate a building and anticipated profits from increases in resale value).

Class 4 Commercial

The IAAO considers an income-based approach to be the most useful method of mass appraisal for commercial properties.

DOF values Class 4 commercial properties using the Net Income Capitalization Approach, a similar methodology as for large rentals. Income and expense data are used in regression models to ensure values reported are within norms of comparable properties, and adjustments are made to reported values where they deviate from these norms. As with large rentals, historical data and trends to stabilize incomes are incorporated. These adjusted values are used to produce final valuations. These statistical regression models are also used to verify that adjusted incomes that are assigned to parcels conform to IAAO guidelines for equity (ensuring that valuation increases systematically as income increases and that properties with similar physical characteristics are valued similarly). Properties where owners fail to file RPIE statements are assigned incomes by models that select incomes from comparable properties, again adjusting for differences.

DOF assigns capitalization rates by commercial building category, with assigned rates declining as income increases (yielding higher property values per dollar of income for properties that have higher incomes). Within a commercial building category, equity in capitalization rates is achieved by assigning similar rates for all parcels with similar incomes. As with large rentals, DOF capitalization rates for commercial properties are generally higher than market capitalization rates because capitalization rates are increased by estimated annual property value growth. For legal and methodological reasons, DOF values use earned income based on current use rather than future income growth and property value appreciation. Technically, it would be challenging to produce accurate estimates of market capitalization rates for mass appraisal purposes for commercial properties, due to a paucity of sales data as well as factors specific to commercial buildings. There is more variation in the physical characteristics and uses of commercial properties than found in residential properties. Commercial properties also differ in terms of lease structure. Given the relatively long-term nature of commercial leases, there can be significant differences in expected future income growth between properties with very similar locational and physical characteristics. In the absence of detailed lease information (which DOF does not currently receive), it is impractical for mass appraisal purposes to generate market-based cap rates at the level of granularity required for this heterogeneous property type.

Evaluation:

The non-uniform valuation methods applicable to different property classes does not comport with the principles of fairness, transparency and simplicity.

While Class 1 properties are valued using comparable sales to capture market value, the valuation method used for coops and condos pursuant to Section 581 of the RPTL produces undervaluation because they must be valued as if they were rental properties. In part because it is difficult to find comparable rents for high-end condos and coops, higher-valued properties are assessed at a fraction of the true values. Moreover, the undervaluation causes the system to be regressive because higher values properties are assessed at a smaller fraction than lower valued properties. For example, at the median, DOF value captures a quarter of market value for coops, and only a fifth for condos. Further, the ratio of DOF value to market value varies significantly by borough, and by the value of the coop or condo, with DOF value capturing the highest share of market value in the Bronx, and for the lowest valued coops or condos.

As a practical matter, it would be difficult to value all property in the same way. However, where it is practical, as in the case of 1-3 family homes, coops, condos and small rental properties, a uniform sales-based valuation method could help improve the property tax system. In the case of other classes, DOF valuation processes and capitalization techniques conform to IAAO standards for horizontal and vertical equity.

II. Assessed Value Growth Caps and Phase-ins

Disparities among the tax liability of Class 1 properties is one of the most talked about issues with the property tax. Caps on assessment growth in the current system mean similarly-valued properties may pay different property taxes, violating a principal component of fairness. For example, Class 1 properties are not typically taxed at the six percent Assessment Ratio because of statutory AV Growth Caps. As a result, two similarly valued Class 1 properties could face different ETRs depending on their history of appreciation.

Example 3 below illustrates how this might occur. Home A's market value increases in year two by 11 percent, from $450,000 to $500,000. Because Home A's growth is capped by NYS law, its AV cannot increase by more than six percent. As a result, the AV for Home A in year two is capped at $28,620 (1.06 x $27,000), resulting in a tax liability of $5,987.

Home B's market value remains unchanged at $500,000 in year two. With no market value appreciation, AV Growth Caps do not apply, and the AV is $30,000 (six percent of market value). Home B has a higher tax bill than Home A, despite identical market values, because Home A's value appreciated at a rate higher than the AV Growth Cap. Home A sees an increase in taxes paid but a decrease in its ETR from $1.26 to $1.20 whereas Home B's ETR remains at $1.26.

Example 3: Impact of Assessed Value Growth Caps on ETRs of Example 1-3 Family Homes

	Home A							
	Market Value	Assessment Ratio	Assessed Value		Actual Assessment Ratio	Tax Rate	Tax	ETR
			Before Caps	After Caps				
Year 1	$450,000	6%	$27,000	$27,000	6.0%	20.919%	$5,648	$1.26
Year 2	$500,000	6%	$30,000	$28,620	5.7%	20.919%	$5,987	$1.20

	Home B							
	Market Value	Assessment Ratio	Assessed Value		Actual Assessment Ratio	Tax Rate	Tax	ETR
			Before Caps	After Caps				
Year 1	$500,000	6%	$30,000	$30,000	6.0%	20.919%	$6,276	$1.26
Year 2	$500,000	6%	$30,000	$30,000	6.0%	20.919%	$6,276	$1.26

As market appreciation persists over time, the accumulation of AV Growth Caps can lead to situations where high-value Class 1 properties pay a lower tax (as well as a lower ETR) than more moderately priced properties.

Further, as shown in Example 4 below, the caps also explain why AVs (and taxes) can increase even when market values are declining. In year three, the values of Home A and Home B decline by $10,000. Both properties are assessed equally at the six percent Assessment Ratio and pay the same tax amount. However, Home A faces a tax increase because the value increase in year two that was subject to the AV Growth Cap is now under the six percent cap in year 3.

Example 4: Impact of Assessed Value Growth Caps on ETRs of Example 1-3 Family Homes, With Market Value Depreciation in Year 3

	Home A							
	Market Value	Assessment Ratio	Assessed Value		Actual Assessment Ratio	Tax Rate	Tax	ETR
			Before Caps	After Caps				
Year 1	$450,000	6%	$27,000	$27,000	6.0%	20.919%	$5,648	$1.26
Year 2	$500,000	6%	$30,000	$28,620	5.7%	20.919%	$5,987	$1.20
Year 3	$490,000	6%	$29,400	$29,400	6.0%	20.919%	$6,150	$1.26

	Home B							
	Market Value	Assessment Ratio	Assessed Value		Actual Assessment Ratio	Tax Rate	Tax	ETR
			Before Caps	After Caps				
Year 1	$500,000	6%	$30,000	$30,000	6.0%	20.919%	$6,276	$1.26
Year 2	$500,000	6%	$30,000	$30,000	6.0%	20.919%	$6,276	$1.26
Year 3	$490,000	6%	$29,400	$29,400	6.0%	20.919%	$6,150	$1.26

Table 10 shows the resulting distortions between Boroughs caused by the AV Growth Caps, for 1-3 family homes.[64] Citywide, the median ratio between Billable AV and DOF Value (AV ratio) is 4.37 percent, below the target AV ratio of six percent. The median AV ratio in Manhattan and Brooklyn, the two boroughs that have seen dramatic property value appreciation, are 2.10 percent and 3.41 percent, respectively. Staten Island, where appreciation has been comparatively slower and therefore AVs are less frequently subject to growth caps, has the highest median AV ratio of 5.20 percent.

Table 10: AV Ratio of 1-3 Family Homes by Borough, FY 2019

Borough	Number of Parcels	AV Ratio of 1-3 Family Homes		
		25th Percentile	Median	75th Percentile
Manhattan	5,404	1.40%	2.10%	2.95%
Bronx	62,615	4.40%	4.97%	5.52%
Brooklyn	191,058	2.25%	3.41%	4.29%
Queens	269,614	3.81%	4.35%	4.90%
Staten Island	107,423	4.68%	5.20%	5.68%
Total	636,114	3.54%	4.37%	5.07%

Note: Restricted to taxable billable properties.

64 AV growth caps also apply to small Class 2 properties (4 to 10 unit rentals buildings and 2 to 10 unit coop and condo buildings), with yearly increases limited to eight percent, or 30 percent cumulatively over five years. The implications of the caps for small Class 2 properties are similar to those observed for Class 1 properties.

Effect of Removing or Adjusting AV Growth Caps

Removing AV Growth Caps, or increasing growth allowed under caps, would bring greater equity to tax bills of similarly-valued properties situated in neighborhoods of differing market value appreciation, although homeowners would be less protected from market price changes as they budget for their property tax bills.

The alternative mechanism to smooth market value fluctuations is to phase them in over time, which is the mechanism applied to large Class 2 properties, as well as Class 4 properties. In those classes, year-over-year actual AV changes are phased in 20 percent per year, which stabilizes volatility while also resulting in value changes being fully reflected in tax bills within a five-year timeframe. By contrast, a doubling in market value in Class 1 requires 18 years to be fully reflected in Billable AV (assuming no further market value appreciation) due to the AV Growth Caps.

Evaluation:

In sum, the AV Growth Cap is a major driver of inequity within Class 1. Over time, AV Growth Caps have produced inequities among properties that have seen different rates of market value appreciation. This has resulted in inequities across the five boroughs and across neighborhoods within boroughs. For example, a high-value Class 1 property may pay a lower tax (as well as have a lower ETR) than a lower valued property.

At the same time, the AV Growth Caps are the main protection that properties in Class 1 have from higher tax bills resulting from market appreciation. They provide both tax relief and predictability, as they smooth out market volatility.

The current AV Growth Caps are tied to properties and not to property owners, they are not means-tested and they do not expire when a property is sold. Furthermore, as tax relief, they are not as transparent as exemptions and abatements, which can be easily identified on a tax bill. The shortcomings of AV growth caps would be addressed by replacing the caps with a system of targeted, means-tested, explicit exemptions that would deliver the desired breadth and depth of tax relief. Also, instituting a five-year phase-in for market value growth (equalization only), which currently exists for Class 2 and Class 4 properties, would provide a more transparent, efficient and practical alternative to smooth market value fluctuations.

III. Class Tax Rates and Class Shares

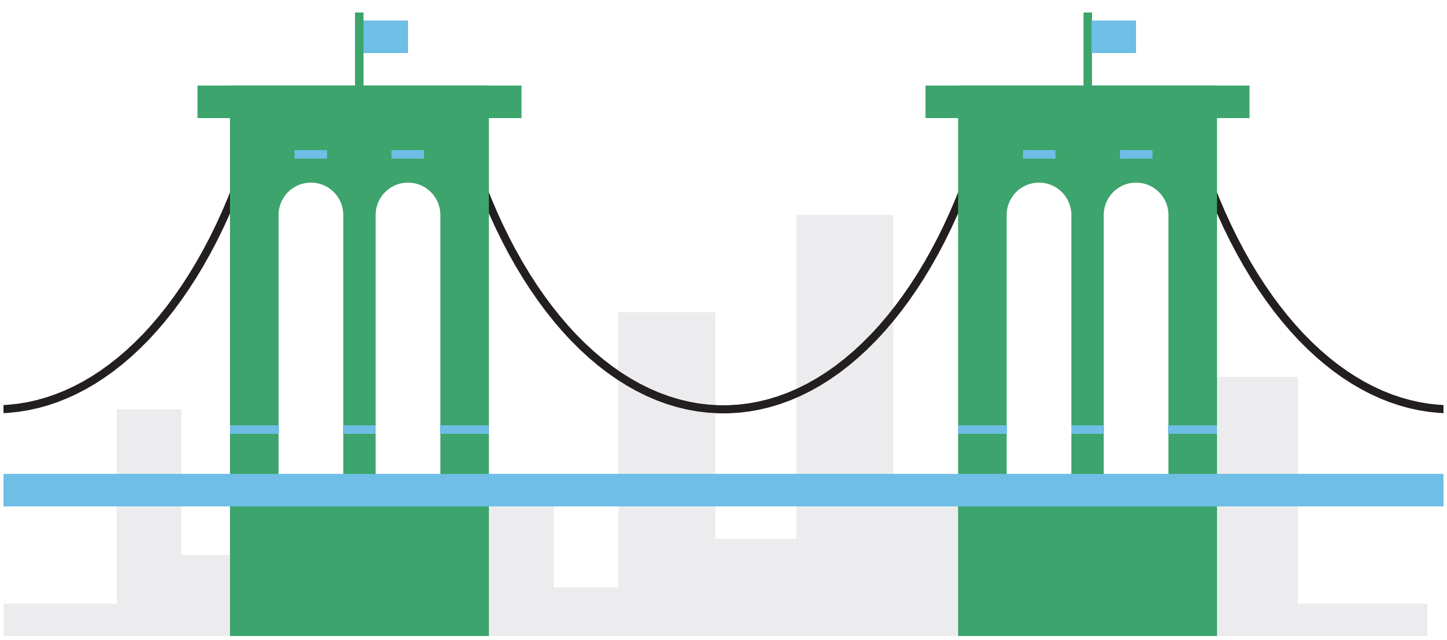
A. Current Class Share System Methodology and Challenges

The class share system was intended to ensure that tax levy paid by each of the four property classes remained aligned with their share of total market value, with these adjustments taking place gradually. The five percent cap on year-over-year growth in class shares due to market conditions (rather than physical additions and subtraction from the building stock) was intended to prevent annual shifts for any given class, with growth in excess of five percent redistributed among the other classes at the City Council's discretion.

Class shares are proportions of market value as determined by NYS ORPTS. Historically, Class 1's share of the total DOF value of property in the City has grown relative to the other classes and elected representatives have responded by enacting state legislation to lower the five percent class share growth cap, thus limiting tax increases on residential properties. Relative growth in DOF values across tax classes is affected both by market dynamics and by the different valuation methods, which can distort both the level and growth rates of DOF values.

As shown in Table 11, the class share growth cap was lowered 23 times since FY 1993.[65] This means that there were 23 instances in which NYS

65 NYC DOF Annual Report of the New York City Property Tax, Fiscal Year 2018, Table 23, https://www1.nyc.gov/assets/finance/downloads/pdf/reports/reports-property-tax/nyc_property_fy18.pdf. In FY19 the cap was 0.5 percent. In FY20, the cap is zero percent.



legislation shifted tax increases that would otherwise apply to residential properties to other types of properties. For example, in FY 2008, legislation reduced the class share growth cap to zero, shifting $474 million in tax increases away from Class 1 properties and to other property classes. Between FY 1993 and FY 2019, the cumulative effect of lower class share growth caps reduced Class 1's levy by over $4.4 billion ($5.3 billion in 2018 dollars) and Class 2's levy by $890 million ($1.3 billion in 2018 dollars). The tax burden shifted onto Class 3 and Class 4 properties was about $1.8 billion ($1.9 billion in 2018 dollars) and $3.5 billion ($4.6 billion in 2018 dollars), respectively.

Table 11: Class Share Caps Adopted and Tax Levy Shifted Between Classes by Lowering Cap Below Five Percent, FY 1993 – FY 2019

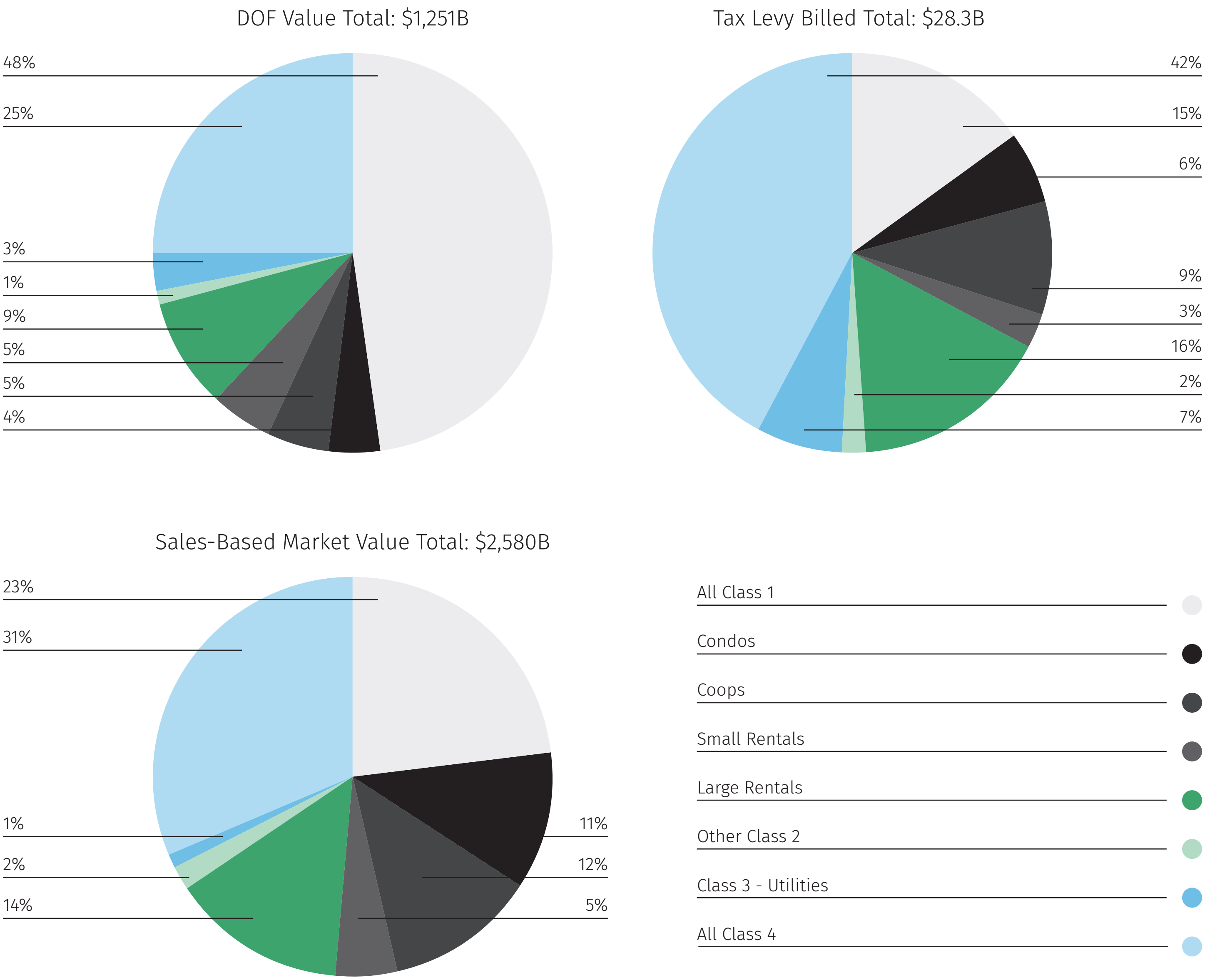
Fiscal Year	Class Share Cap	Nominal Tax Levy Shift ($M): Actual Class Share Cap Compared to 5 Percent Cap			
		Class 1	Class 2	Class 3	Class 4
1993	2.00%	$20	($70)	$48	$2
1994	5.00%	$9	($44)	$0	$36
1995	2.75%	($12)	($100)	($10)	$122
1996	2.75%	($33)	($122)	($21)	$177
1997	2.50%	($52)	($36)	($35)	$122
1998	2.50%	($20)	$1	($52)	$71
1999	2.50%	($39)	($0)	($70)	$108
2000	2.50%	($18)	$1	($92)	$109
2001	2.00%	($8)	$0	($30)	$38
2002	2.00%	($42)	($0)	$5	$37
2003	2.00%	($94)	($0)	$22	$73
2004	2.00%	($164)	($0)	$17	$147
2005	5.00%	($178)	($1)	$32	$146
2006	2.00%	($261)	($145)	$78	$327
2007	2.00%	($349)	($63)	$106	$306
2008	0.00%	($474)	$24	$115	$335
2009	0.00%	($666)	($178)	$316	$529
2010	0.00%	($617)	($225)	$348	$494
2011	2.50%	($430)	($6)	$265	$170
2012	2.50%	($277)	($2)	$123	$156
2013	1.50%	($175)	$87	$185	($97)
2014	1.00%	($103)	$67	$168	($132)
2015	5.00%	$0	$0	$0	($0)
2016	5.00%	$0	$0	$0	$0
2017	5.00%	$0	$0	$0	$0
2018	0.00%	($183)	($8)	$112	$79
2019	0.50%	($263)	($70)	$172	$161
	Total	($4,427)	($890)	$1,802	$3,515

Note: Five percent cap assumes the excess burden was distributed using the same percentages as the distribution of the implemented cap for the same year. Dollar amounts are nominal values (not adjusted for inflation).

B. How Does the Share of Total Value and Share of Total Levy Vary by Property Type?

Figure 1 reflects three percentages for each property type based on City FY 2019 data. First is the DOF value share from the DOF assessment roll. Second is the share of tax levy billed (net of exemptions and abatements). Third is the market value share calculated from estimated sales-based market value. The disconnect between existing DOF values and tax levy shares is illustrated by Class 1 representing 48 percent of value but only 15 percent of taxes paid (tax levy). However, when using a common valuation method (sales-based market values) across all property types, Class 1 represents 23 percent of value. Coop and condo buildings' market value shares go from nine percent in DOF value to 23 percent. These buildings currently account for 15 percent of taxes paid.

Figure 1: Share of DOF Value, Tax Levy, and Sales-Based Market Value by Property Type, FY 2019



Source: New York City Department of Finance, Division of Tax Policy Analytical File
Notes: Restricted to taxable billable properties. Other Class 2 includes condops, con-rentals and commercial condo units in residential buildings. Tax Levy Billed is after exemptions and abatements.

Any class with a market share greater than its share of the tax levy is receiving a tax preference. With the consistent measure of market values here (the sales-based methodology), Class 1 properties, coops, condos and small rentals show a tax preference (accounting for 51 percent of sales-based value and paying 33 percent of the levy). Large rentals and Class 4 properties, on the other hand, comprise 45 percent of value and pay 59 percent of the levy.

Even as Class 1 receives a tax preference, Class 1 taxpayers express frustration over the disconnect between the tax rate they see on their bill and what the City directly controls: the overall tax rate. The overall tax rate has not been raised since 2009, but taxpayers have seen their class tax rate increase over the period as a result of the class shares and rate-setting components of the property tax system. The rise of Class 1's tax rate has been offset by falling rates for Class 2 and Class 3.

Here is why. Each class' tax rate is the product of a few things: The overall levy, the share of the levy each class is responsible for paying, and the amount of AV in the class. Over the past five years, the overall assessment in the entire City has gone up by about 39 percent, and since the overall tax rate has not changed, this means the overall levy has also gone up by roughly 39 percent.

During this same period, Class 1's assessments grew by 24 percent, held down largely by the strong caps, but Class 1 had to provide 39 percent more in tax levy from only 24 percent more in assessments; after accounting for the enactment of state legislation that reduced its class share, Class 1 still had to raise 32 percent more in levy from only 24 percent more in assessments. As a result, the Class 1 tax rate has increased from 19.191 percent to 20.919 percent in FY 2019, but taxpayers and many officials did not understand why, given the complicated calculations of the class share system.

IV. Subtraction of Exemptions (Taxable Billable AV)

A wide range of organizations receive real property tax exemptions if their properties are used for qualifying purposes.[66] Table 12 shows the total number of exemptions and total tax expenditure (the value of the property tax reduction) going to public and institutional entities that are exempt from New York City property tax. The exempt categories include government and public authorities, as well as houses of worship, hospitals, educational institutions, and other charitable and not-for-profit organizations. The tax dollar value of exemptions for private not-for-profit medical care and educational facilities totaled $1.5 billion in FY 2019, two sectors that have experienced growth in the tax expenditure amount in recent years.

Table 12: Real Property Tax Exemptions for Selected Sectors, FY 2019

Sector	Number of Exemptions	Tax Expenditure ($M)
Government	17,670	6,240.8
Public Authorities	11,279	5,081.6
Private Institutional	14,953	2,866.5
Religious	9,162	825.4
Medical Care	1,138	745.5
Educational Facilities	1,118	713.0
Other	3,535	582.6

Source: New York City Department of Finance, Annual Report of the New York City Property Tax FY19 (Table 3).

In addition to institutional exemptions, a variety of programs in state law include exemptions granted for housing programs, such as the development of multiple dwellings buildings (e.g., the 421-a and Affordable New York programs) and their rehabilitation (e.g., the J-51 program). Furthermore, economic development exemptions include programs targeted at commercial buildings (e.g., the Industrial and Commercial Abatement Program). In general, these exemptions are available “as-of-right” to all investments that satisfy eligibility requirements and last for several years, stretching up to 35 years in the case of Affordable New York. Legislative changes to the programs would only affect future recipients. In addition to as-of-right programs, discretionary property tax exemptions can be granted by the Industrial Development Agency for economic development purposes. Most economic development programs providing property tax exemptions are a legacy of more challenging City economic conditions and should be re-evaluated and revisited to determine their effectiveness. The Department of Housing Preservation and Development can propose, and the City Council can authorize, tax exemptions for the construction or rehabilitation of affordable housing.

66 Eligibility guidelines are available from DOF https://www1.nyc.gov/site/nfp/eligibility/eligibility.page

Individual assistance programs are targeted to primary residents on the basis of income, age, disability, and veteran status. New York State provides an exemption for residential owners through the School Tax Relief (STAR) program, although this is being gradually replaced by a comparable State income tax credit. These programs provide tax relief on an annual basis and legislative changes affect current and future recipients.

For the major exemption programs administered by New York City, Table 13 reports the number of exemptions, exempt AV, and the amount of tax expenditure (the value of the property tax reduction).[67]

Table 13: Major Real Property Tax Exemption Programs for Taxable Properties, FY 2019

Program	Number of Exemptions	Exempt AV ($M)	Tax Expenditure ($M)
Housing Development			
421-a, New Multiple Dwellings	71,095	12,761.4	1,608.7
J-51 Exemption	21,840	1,768.2	223.1
420-c, Low-Income Housing	2,033	2,314.6	273.3
Economic Development			
Industrial and Commercial Incentive Program	5,617	5,634.8	596.7
Individual Assistance			
Senior Citizen Homeowner Exemption (SCHE)	47,373	727.7	137.3
Veterans Exemption	44,590	281.0	46.8
Low-Income Disabled Homeowner Exemption (DHE)	3,051	43.9	8.4

Source: New York City Department of Finance, Annual Report on Tax Expenditures FY19 (Table 1).

Evaluation:

These exemptions serve to promote policy goals, such as the development of affordable housing, improvement of existing housing, and tax relief for seniors, veterans, and the disabled. They reduce taxable value and therefore result in differences in ETRs among properties.

Class shares are based upon market value but class tax rates are based upon Taxable Billable AV. Exemptions (but not abatements) reduce a class's Taxable Billable AV, and as a result, the greater a class's exempt value, the higher the tax rate.

67 More detail can be found in NYC Department of Finance (2019) Annual Report on Tax Expenditures FY19, https://www1.nyc.gov/assets/finance/downloads/pdf/reports/reports-tax-expenditure/ter_2019_final.pdf

V. Subtraction of Abatements

Table 14 summarizes the major tax expenditure programs delivered through abatements, which directly lower tax payments. Individual assistance represents the largest amount of tax expenditures, mainly due to the Coop-Condo Tax Abatement. Legislation passed in 2013 limited the abatement to properties that are the primary residence of the owner. Abatement rates were also changed to 28.1 percent in buildings with AV per unit of up to $50,000, declining to 17.5 percent for AV per unit above $60,000.

Table 14: Major Abatement Programs, FY 2019

Program	Number of Abatements	Tax Expenditure ($M)
Housing Development		
J-51 Abatement	72,101	74.8
Economic Development		
Industrial and Commercial Abatement Program (ICAP)	1,217	197.8
Individual Assistance		
Coop-Condo Abatement	303,037	571.8
Senior Citizen Rent Increase Exemption(SCRIE)	60,632	142.4
Disabled Person Rent Increase Exemption (DRIE)	11,423	24.8

Source: New York City Department of Finance, Annual Report on Tax Expenditures FY19 (Table 1).

Evaluation:

Abatements are used to promote policy goals such as building rehabilitation, as well as providing tax relief for coops and condo owners, seniors and the disabled. These abatements directly reduce the tax bill and therefore also result in differences in ETRs among properties.

VI. Tax Burden

To better understand how the many factors above combine to affect relative tax burdens, this sub-section compares ETRs for different types of properties.

A. How Do ETRs Vary Between Different Property Types?

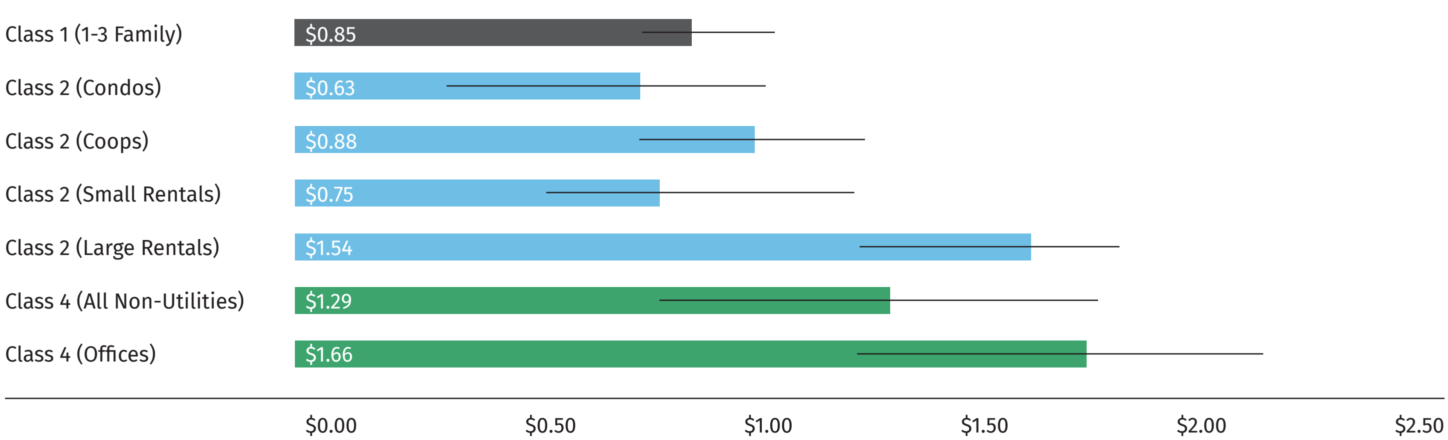
Figure 2 provides a comparison of ETRs by property type in FY 2019 using sales-based market values for consistent treatment across property types. The property types with the highest median ETR are offices ($1.66), which make up a large portion of the square footage in Class 4, followed by large rentals ($1.54) and Class 4 non-utility properties ($1.29). The remaining residential property types vary within a relatively small band, ranging from $0.63 for Class 2 condos to $0.88 for coops.

The figures presented here paint a somewhat different picture from previous studies of ETRs in New York which did not use a common denominator, such as the sales-based market values the Commission is using. Previous studies have calculated ETRs using published DOF values, which for non-Class 1 properties tend to be substantially higher than sales-based values. For example, a widely cited NYU Furman Center report,[68] estimated ETRs for Class 2 and Class 4 of $3.31 and $3.85, respectively -- rates roughly twice as high as the ETRs found when using sales-based market values for Class 2 and Class 4. The Furman Center report estimates that the ETRs for Class 2 were almost five times those of Class 1, but those differences shrink dramatically when all are valued on a sales-based method. Studies that rely on DOF values have therefore considerably overstated the disparity in ETRs between Class 1 and the other tax classes, compared to the more appropriate method of using sales-based market values to assess tax burden.

Figure 2: Effective Tax Rates by Property Type, FY 2019

ETR After Exemptions and Abatements Per $100

Bar Represents Median, with Interval for 25th and 75th Percentiles



Source: New York City Department of Finance, Division of Tax Policy Analytical File

Notes: Restricted to taxable billable properties. Class 4 All Non-Utilities includes 6,566 office parcels.

68 NYU Furman Center Distribution of the Burden of New York City's Property Tax, available at https://furmancenter.org/files/sotc/Distribution_of_the_Burden_of_New_York_Citys_Property_Tax_11.pdf

B. How Do ETRs for NYC Compare to Other Cities?

While there are few studies comparing property tax ETRs in cities across the country, the Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence annual report on property tax burdens in 53 cities across the United States[69] offers a useful point of reference. This report estimates an ETR for different hypothetical property types that can be compared across locations. Of the 53 cities studied, 42 treat owner-occupied homestead properties preferentially relative to commercial properties. As Table 15 shows, with an estimated ratio of commercial to homestead of 2.76, NYC ranked 6th highest in this report (column 5).

Table 15: Estimated Tax Burden for Residential and Commercial Properties in NYC Compared to Other Cities, 2018

	Effective Tax Rate per $100			Ratio of Effective Tax Rates Between Property Types (Relative to Homestead)		
	Lincoln Study		New York City Median ETR per $100 of Sales-Based Market Value	Lincoln Study		New York City ETR Ratio (Median ETR Relative to Median Homestead ETR)
	Average ETR in 53 Cities Studied	ETR in New York City		Average ETR Ratio in 53 Cities Studied	ETR Ratio in New York City	
	(1)	(2)	(3)	(4)	(5)	(6)
Homestead	$1.37	$0.50 (50th)	$0.85	-	-	-
Commercial	$1.95	$1.14 (47th)	$1.34	1.67	2.76 (6th)	1.58
Apartment	$1.69	$1.20 (39th)	$1.54	1.31	2.55 (2nd)	1.81

Sources: Columns 1, 2, 4 and 5: Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence 50-State Property Tax Comparison Study, June 2019 (Appendix Tables 2b, 3a, 5a, 6a, 6b).
Columns 3 and 6: New York City Department of Finance, Division of Tax Policy Analytical File. Homestead, Commercial, and Apartment are defined, respectively as: 1-3 family homes, Class 4 commercial properties, and large rentals (FY 2019).
Notes: Effective Tax Rates in Columns 1 and 2 are estimated for: a Homestead property with the median value in each city and after accounting for assessment growth caps; a $1M Commercial property with an additional $200K of fixtures; and a $600K Apartment property with an additional $30K of fixtures. The Effective Tax Rate ratios in Columns 4 and 5 do not include the value of the additional fixtures for Commercial and Apartment because the value of a homeowner's household goods are not taxable.

The relatively high ranking in this study is due to the highly preferential treatment of homes under the current property tax system (NYC ranked 50th with a $0.50 homestead ETR).[70] This, in part, stems from AV Growth Caps and the fact that taxable value does not reset upon property sale as it often does in other jurisdictions.

The Lincoln Institute study found that 36 of 53 cities have lower tax burdens on homestead properties than they do on rental properties. The ratio of ETRs for rental buildings compared to homestead properties was estimated to be 2.55 in New York City, ranking 2nd. This is also likely driven by the preferential treatment of homestead properties, and not necessarily due to a high burden on rental properties (NYC ranked 39th with a $1.20 rental property ETR).

69 See Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence 50-State Property Tax Comparison Study, available at https://www.lincolninst.edu/sites/default/files/pubfiles/50-state-property-tax-comparison-for-2018-full__0.pdf.

70 High ranking is not due to a high burden on commercial properties relative to other locations (NYC ranked 47th with an ETR of $1.14).

Table 15 also displays ETRs for each of the three property types using the sales-based market values estimated for the Commission (prior section). Similar to the Lincoln Institute study, this alternative approach shows that homestead properties enjoy a much lower tax burden than other property types (ETR of $0.85 for homestead parcels, compared to $1.34 for commercial and $1.54 for apartments). The differential in ETR between homestead properties and other property types is considerable (column 6), but not as wide as in the Lincoln Institute study (column 5).

C. How Do ETRs Vary Within Property Types?

ETRs vary between the different property types and also within the various property types. As Figure 2 shows, for all property types there is a considerable gap between 25th percentile and 75th percentile ETRs. Exemption and abatement programs contribute to differences in ETRs within specific property types.

Among 1-3 family homes, variation in ETRs is caused primarily by the differential effects of AV Growth Caps. Specifically, in neighborhoods where market values are appreciating rapidly, ETRs will tend to be lower as a result of these growth caps.

Focusing on 1-3 family homes Tables 16 and 17 summarize ETRs by borough and by price level.

As Table 16 shows, the median ETR for 1-3 family homes is lowest in Manhattan ($0.41) and highest in Staten Island ($1.02). Within boroughs, there is also considerable variation. In Brooklyn, for example, the difference between a taxpayer in the 25th percentile and one in the 75th percentile is $0.46.

Table 16: Effective Tax Rates for 1-3 Family Homes by Borough, FY 2019

Borough	ETR After Exemptions and Abatements		
	25th Percentile	Median	75th Percentile
Manhattan	$0.27	$0.41	$0.61
Bronx	$0.82	$0.98	$1.10
Brooklyn	$0.39	$0.65	$0.85
Queens	$0.73	$0.86	$0.98
Staten Island	$0.89	$1.02	$1.13
All	$0.65	$0.85	$1.01

Note: Restricted to taxable billable properties.

As shown in Table 17, ETRs also vary considerably by property value category. In general, lower-valued homes face a substantially higher ETR, largely the result of homes in higher-valued and more rapidly appreciating neighborhoods disproportionately benefiting from AV Growth Caps.

Table 17: Effective Tax Rates for 1-3 Family Homes by Sales-Based Market Value Category, FY 2019

Sales-Based Market Value Category	ETR After Exemptions and Abatements		
	25th Percentile	Median	75th Percentile
Less Than $100K	$1.24	$1.26	$1.26
$100K to $150K	$0.90	$1.25	$1.26
$150K to $200K	$0.88	$1.10	$1.26
$200K to $250K	$0.82	$1.03	$1.19
$250K to $300K	$0.86	$1.06	$1.15
$300K to $400K	$0.87	$1.03	$1.15
$400K to $500K	$0.85	$0.99	$1.10
$500K to $750K	$0.77	$0.91	$1.03
$750K to $1M	$0.66	$0.80	$0.93
$1M to $2.5M	$0.41	$0.63	$0.80
$2.5M to $5M	$0.19	$0.25	$0.38
$5M to $7.5M	$0.29	$0.42	$0.58
$7.5M to $10M	$0.35	$0.45	$0.64
$10M or More	$0.33	$0.47	$0.62
All	$0.65	$0.85	$1.01

Note: Restricted to taxable billable properties.

There is also considerable variation in ETRs among condos, coops and small rentals, as shown previously in Figure 2. Similar to 1-3 family homes, smaller condos, coops, and rentals (10 or fewer units) are subject to AV Growth Caps. In addition, there is another important factor affecting variation in ETRs for all condos, coops and rentals regardless of size: the varying degrees to which DOF value captures sales-based market values.

Specifically, DOF value captures a lower share of sales-based market value for higher-priced coops (Table 6). DOF value captures 49 percent of sales-based market value at the lowest end of the coop price spectrum (less than $100K), and this percentage declines as price increases, with only 10 percent of sales-based value captured for those at the highest end (greater than $10M). As shown in Table 18, this translates to a regressive pattern of ETRs: the lowest-valued coops have a median ETR of $1.76, while the highest-valued coops are subject to a median ETR of only $0.39.

Table 18: Effective Tax Rates for Coops by Sales-Based Market Value Category, FY 2019

Sales-Based Market Value Category	ETR After Exemptions and Abatements		
	25th Percentile	Median	75th Percentile
Less Than $100K	$1.34	$1.76	$2.37
$100K to $150K	$0.93	$1.25	$1.70
$150K to $200K	$0.83	$1.12	$1.43
$200K to $250K	$0.75	$0.99	$1.24
$250K to $300K	$0.68	$0.90	$1.15
$300K to $400K	$0.59	$0.81	$1.09
$400K to $500K	$0.55	$0.81	$1.14
$500K to $750K	$0.58	$0.88	$1.20
$750K to $1M	$0.65	$0.88	$1.13
$1M to $2.5M	$0.60	$0.81	$1.02
$2.5M to $5M	$0.49	$0.65	$0.83
$5M to $7.5M	$0.40	$0.52	$0.66
$7.5M to $10M	$0.39	$0.48	$0.61
$10M or More	$0.29	$0.39	$0.48
All	$0.63	$0.88	$1.18

Source: New York City Department of Finance, Division of Tax Policy Analytical File
Notes: Restricted to taxable billable properties. A parcel is defined as a coop unit.

The pattern of DOF values capturing a declining portion of sales-based market values is similar for condos (Table 8). DOF value captures 34 percent of sales-based market value for condos valued at less than $100K, and this percentage generally decreases as sales-based market value increases, reaching only 10 percent for condos with sales-based values greater than $10M. However, as shown in Table 19, condos do not show the same pattern of median ETRs as coops. Condos valued at less than $100K have a median ETR of $0.41, while condos at the highest end pay $0.44, and there is significant variation at intervening price levels. This is primarily due to the 421-a tax exemption.

Table 19: Effective Tax Rates for Class 2 Condos by Sales-Based Market Value Category, FY 2019

Sales-Based Market Value Category	ETR After Exemptions and Abatements		
	25th Percentile	Median	75th Percentile
Less Than $100K	$0.33	$0.41	$0.42
$100K to $150K	$0.27	$0.32	$0.36
$150K to $200K	$0.26	$0.47	$1.14
$200K to $250K	$0.24	$0.56	$1.01
$250K to $300K	$0.45	$0.72	$1.06
$300K to $400K	$0.38	$0.65	$0.91
$400K to $500K	$0.16	$0.58	$0.89
$500K to $750K	$0.09	$0.54	$0.93
$750K to $1M	$0.09	$0.68	$1.02
$1M to $2.5M	$0.34	$0.73	$0.97
$2.5M to $5M	$0.54	$0.70	$0.87
$5M to $7.5M	$0.47	$0.61	$0.78
$7.5M to $10M	$0.41	$0.53	$0.70
$10M or More	$0.31	$0.44	$0.59
All	$0.27	$0.63	$0.93

Source: New York City Department of Finance, Division of Tax Policy Analytical File
Notes: Restricted to taxable billable properties, excluding Class 2 condos smaller than 100 square feet (e.g., storage units, parking).

Evaluation:

AV Growth Caps for 1-3 family homes, and relative undervaluation for higher-priced coops and condos, result in ETR inequities among price levels. ETRs tend to be lower for higher-priced properties. The pattern is less apparent for condos, in part due to exemption programs such as 421-a.

Section 5

Initial Recommendations

Initial Recommendations

The Commission reached consensus on 10 initial recommendations that together help resolve the issues identified in the previous section:

1. The Commission recommends moving coops, condominiums and rental buildings with up to 10 units into a new residential class[71] along with 1-3 family homes. The property tax system would continue to consist of four classes of property: residential, large rentals, utilities, and commercial.

For the new proposed residential class, Class 1 properties would be combined with condos and coops, as well as small rentals, furthering the principles of fairness and transparency.

The Commission recognizes that coops and condos are broadly similar to Class 1 in terms of residential usage and grouping them together would make it easier to ensure that they receive the same treatment under the property tax system.

Small rental properties, which borrow features from both residential properties and large rentals, are proposed to be included in this new class because, similar to Class 1 and smaller coop and condo parcels, these properties have historically benefitted from AV Growth Caps. Data indicate that with the elimination of these caps (Recommendation 4), significant disruptions could arise from grouping small rentals with large rentals due to the difference in their Effective Tax Rates.

2. The Commission recommends using a sales-based methodology to value all properties in the residential class.

This reform achieves valuation equity both between and within property types because all properties in the new residential class are subject to similar methods for assessing values. State law currently mandates that coops and condos be valued as if they were rental properties, which results in incomparable values to those based on market sales and substantial variation in the share of sales-based market value that is captured, particularly by price level and geography. Valuing coops, condos and small rentals

71 Technically, 'residential' refers to properties where people reside, but for present purposes the Commission uses the term "new residential class" to mean excluding large rental residential properties.

instead by a comparable sales approach would serve to promote equity among all property types in the new residential class. In addition, it would improve transparency and simplicity in how tax bills are determined, without changing the total tax paid in aggregate by the new residential class.

Further, it would allow DOF's assessments to comport with the International Association of Assessing Officers (IAAO) recommended best practices of using the comparable sales approach for the vast majority of residential parcels in New York City to determine market values, ensuring uniformity in administration.

3. The Commission recommends assessing every property in the residential class at its full market value.

This proposal eliminates fractional assessments, thus situating all properties in the new residential class on an equal footing: all properties in the residential class would be valued via the same sales-based methodology. This reform would improve transparency and simplicity by eliminating the confusion surrounding fractional assessments; all parcels will now be taxed based on their full market value, thus allowing all property owners to focus on the essential determination of the tax bill: (assessed value) x (tax rate).

4. The Commission recommends that annual market value changes in the new residential class be phased in over five years at a rate of 20% per year, and that Assessed Value Growth Caps should be eliminated.

To allow for some predictability in tax bills and time to adjust to market changes, annual market value changes (excluding growth due to physical alterations) would be phased in over five years. As a result, inequities caused by different rates of property value appreciation would be temporary. This change would be a critical step towards resolving inequities within current Class 1 properties and the Class 2 properties subject to caps.

Removing the system of AV Growth Caps would promote equity, fairness and transparency across locations with varying rates of property value appreciation; eliminating the cumulative effects of these caps would clarify the relationship between the amount of taxes paid relative to a property's value.

5. The Commission recommends creating a partial homestead exemption for primary resident owners with income below a certain threshold. The exemption would be available to all eligible primary resident owners in the residential class and would replace the current Coop-Condo Tax Abatement.

The Commission recognizes the importance of offering relief to primary resident owners in the City and recommends creating a new partial exemption program for these owners. In addition to providing a broad-based benefit to primary resident owners, the partial exemption would help to protect them from increased taxes, including increases caused by the removal of Assessed Value Growth Caps. The breadth and depth of this partial exemption are among the outstanding issues that the Commission will explore with the goal of achieving a balance between homeowner relief and the Commission's mandate for revenue neutrality.

The creation of this new partial exemption, combined with Recommendations 1–3, would eliminate the need for the Coop-Condo Abatement Program, which was originally enacted to offset inequities between Class 1 and Class 2 coop and condo owners. It also would replace the benefit currently provided through growth caps with a more equitable and targeted form of relief.

6. The Commission recommends creating a circuit breaker within the property tax system to lower the property tax burden on low-income primary resident owners, based on the ratio of property tax paid to income.

The relief program the Commission is recommending would be administered via the property tax system and targeted to lower-income owners facing a high property tax burden, after applying all exemptions and abatements including the newly created partial homestead exemption. Under this program, property tax bills for qualifying owners would be limited to a certain percentage of household income. The circuit breaker relief would be capped at a certain dollar amount. This new program would help ensure that low-income owners have affordable tax bills. The breadth and depth of the circuit breaker are among the outstanding issues that the Commission will explore with the goal of achieving a balance between homeowner relief and the Commission's mandate for revenue neutrality. This reform, in tandem with Recommendation 5, supports a targeted approach to providing relief.

7. The Commission recommends replacing the current class share system with a system that prioritizes predictable and transparent tax rates for property owners. The new system would freeze the relationship of tax rates among the tax classes for five-year periods, after which time the City would conduct a mandated study to analyze if adjustments need to be made to maintain consistency in the share of taxes relative to fair market value borne by each tax class.

The class share system is overly complicated. Even when citywide average tax rates remain the same from year to year, the class share system has meant that the property tax rate owners actually see on their tax bill changes every year, which has been a persistent source of confusion. Over time, it has introduced inequities, as class share caps have caused tax shares to diverge from market value shares and historically have favored some classes over others. Elimination would improve equity among property classes and would bring simplicity and transparency in property tax rates and bills.

The newly mandated sales-ratio study that the Commission is recommending to be carried out every five years would ensure that the ratio of Effective Tax Rates among the various classes is clear and remains relatively stable, and the process through which rates are set is more transparent. While rates will continue to be determined at the discretion of City Council to balance the City budget, in intervening years that do not coincide with the end of a five-year adjustment period, any rate changes must be applied in equal proportion to all classes. To avoid the risk of market disruption in the first year of the transition to the new system, the share of total levy paid by properties in each of the newly reconfigured classes will remain the same as under the current system.

8. The Commission recommends that current valuation methods should be maintained for properties not in the new residential class (rental buildings with more than 10 units, utilities, and commercial).

The Commission recommends continuing to value large rental and commercial property types based on current use. This involves valuing these property types by direct capitalization of current net operating income using capitalization rates that do not incorporate expectation of income growth or property appreciation. While valuing at "best use" would improve transparency in that it could generate values closer to sales values, it is problematic for mass valuation in a jurisdiction such as New York City with a large diversity in property types and lease structures. The best use method would not reflect current lease structures for many properties and would add speculative assumptions to the mass valuation process.

The Commission makes this recommendation recognizing that the current valuation approach conforms to International Association of Assessing Officers standards and that its income and expense models meet guidelines for vertical and horizontal equity. There is also consistency in capitalization rates because buildings of the same type with similar incomes are assigned similar capitalization rates. Special franchise utility parcels would continue to be valued by the New York State Office of Real Property Tax Services, and non-special franchise utility parcels would continue to be valued by the New York City Department of Finance using cost indices.

9. The Commission recommends a gradual transition to the new system for current owners, with an immediate transition into the new system whenever a property in the new residential class is sold.

The Commission recommends that transition to the new system occur gradually for current owners, to help reduce disruptions from reform, and with the aim of mitigating abrupt impacts to the real estate market.

During this transition period, the Commission recommends that if a property is sold, its tax bill will be reset to equal its tax bill under the new system, i.e., it will be fully transitioned into the new system. Numerous other jurisdictions have property tax systems whereby the assessed value is reset upon the sale of a property.[72]

The Commission recognizes there are policy trade-offs involved in changing a system as long-standing as the current property tax system. An expeditious transition could be disruptive to tax bills and market conditions, therefore justifying gradual implementation. However, the longer the adjustment period, the slower would be the move toward overall fairness and the accrual of benefits for those with lower tax bills.

10. The Commission recommends instituting comprehensive reviews of the property tax system every 10 years.

The Commission recommends that the City convene a group of experts to reevaluate the property tax system every 10 years to ensure that the property tax system continues to meet policy goals and needs.

72 See Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence 50-State Property Tax Comparison Study, available at *https://www.lincolninst.edu/sites/default/files/pubfiles/50-state-property-tax-comparison-for-2018-full__0.pdf*.

Glossary of Terms

Abatement - A direct reduction in real property tax liability through a credit, rather than an indirect reduction through an exemption in taxable assessed value. The City has a number of abatement programs, including the J-51 housing rehabilitation abatement, the Senior Citizen Rent Increase Exemption, the Lower Manhattan Revitalization abatement, the Industrial and Commercial abatements and the Coop-Condo Tax Abatement.

Actual Assessed Value - The assessment established for all tax classes and without regard to the five-year phase-in requirement for most Class Two and all Class Four properties.

Assessed Value (AV) - A property's assessed value is a percentage of its market value. By law, the assessed value of a class 1 property cannot increase by more than 6% per year or 20% over five years, unless the value increases are due to new construction or renovations. In addition, your assessed value cannot exceed 6% of your home's market value.

Assessment Ratio - The ratio of assessed value to market value.

Assessment Roll - The public record of all properties in a taxing jurisdiction and their assessed values.

Base Proportion - Under Article 18 of the Real Property Tax Law, the taxable assessed value of each tax class as a proportion of total taxable assessed value in a base year. These proportions establish the basis for the distribution of the tax levy among the four tax classes.

Billable Assessed Value (BAV) - The assessed value on which tax liability is based. For properties in Classes Two or Four, the billable assessed value is the lower of the actual or transitional assessed value.

Capitalization - The process by which anticipated future income and benefits are converted to a present value.

Capitalization Rate - A rate of return used to produce the capital value of an income stream.

Class Levy – Total Levy multiplied by the Class Share.

Class Share - The proportion of the tax levy allocated to a tax class.

Comparable Sales Approach - The process by which a property's market value is estimated based on the sales prices of similar (comparable) properties.

Condominium - A form of ownership that combines individual ownership of residential or commercial units with joint ownership of common areas such as hallways, etc.

Cooperative - A form of corporate ownership of real property whereby shareholders are entitled to use dwelling units or other units of space.

Direct Capitalization Approach – Used by DOF to value large rental properties. Current adjusted net operating income is utilized to calculate the value of a property. This approach is generally accepted by the courts.

Discounted Cash Flow Approach – A method of valuation that converts multiple years of projected income into a present value by applying a discount rate.

Depreciation - In appraisal, a charge against the reproduction cost of an improvement for estimated wear and obsolescence.

Effective Tax Rate (ETR) – The tax paid per $100 of a property's sales-based market value.

Equalization – Changes in the value of a property as a result of market conditions.

Exemption - A provision of law that reduces taxable value or income.

Exempt Value - The amount or percentage of assessed value that is not subject to taxation. Property may be fully exempt or partially exempt.

Fiscal Year - A 12-month period used for financial reporting. The City's fiscal year runs from July 1 to June 30.

Fractional Assessment - Assessment of real property at a percentage of market value (i.e., at less than 100 percent of market value).

Fully Exempt – A property is fully exempt if the taxable value of the exemption(s) it receives is equal to the taxable value of the property.

Growth Caps – The limit on the amount that Class 1 properties (six percent in a single year or 20 percent over five years) and small apartment buildings in Class 2 (eight percent in a single year or 30 percent over five years) assessed values can increase.

Income Capitalization Approach - A method of valuing real estate by discounting net operating income to arrive at a present worth estimate.

Liability - A debt or financial obligation.

Multi-family Housing - A residential structure with more than one dwelling unit.

Net Income Capitalization Approach – Methodology used by Department of Finance to value Commercial properties (Class 4). Current adjusted net operating income is utilized to calculate the value of a property. Income and expense data are used in statistical regression models to ensure value reported are within norms of comparable properties (with adjustments made if necessary).

New York State Real Property Tax Law (RPTL) – The real property tax law that governs how property taxes are administered in New York State.

Official Department of Finance Value (DOF Value) – The value that the Department of Finance determines a property should be assessed on, using methodologies specifically defined under New York State Law.

Operating Expenses – Includes all expenses necessary to maintain a property and/or its income, excluding debt service. For purposes of assessment, real estate taxes are omitted.

Parcel - A piece of land under one ownership.

Phase-In – Assessed value changes due to equalization are phased-in over a five-year period for all Class 4 properties and Class 2 properties not subject to assessed value growth Caps. 20 percent of the change is phased-in every year.

Physical Changes - Additions to raw land that increase value, such as new construction, demolition, restoration of properties to the assessment roll, and properties moving from one tax class to another.

Primary Resident Owner –The owner of a parcel where at least one of the dwelling units is used as the owner's full-time residence, with the owner maintaining a permanent and continuous physical presence.

Property Tax and Interest Deferral Program (PT AID) – Owners who qualify can defer property tax payments and remain in their homes. The payment can be deferred for a fixed length of time for temporary hardship, or for a longer period due to chronic hardship.

Real Property Income and Expense (RPIE) – A New York City mandated form that large rental properties and most other income producing properties with an assessed value of more than $40,000 must file annually.

Sales-Based Market Value – The value of a property if it was sold in an open, competitive market.

Section 581 – The section of the Real Property Tax Law that requires New York City to value cooperative and condominium buildings as if they were rental properties.

Special Franchise - Cables, conduits, pipes, and other utility property located in or along the public right-of-way.

Tax Classes – Properties in New York City are divided into four classes, each treated differently under law.

- Class 1: One-to three-unit, predominantly residential properties. Also includes certain vacant land and certain types of condominiums.
- Class 2: Residential property with 3+ units, including condos and co-ops
- Class 3: Utility company equipment and special franchise property
- Class 4: All other real property, including office buildings, factories, stores, hotels, and lofts

Tax Dollar Value of Exemption – The exempt value times tax rate. The exempt value is actual assessed value (or a portion of actual assessed value for partially exempt properties). Actual assessed value is the product of the assessment ratio applied to market value. The reported tax dollar value does not include Payments-In-Lieu-of-Taxes (PILOTS), which reduce the net tax dollar value of the exemption for some parcels receiving certain economic development and housing-related exemptions. For information on PILOTS, please refer to the NYC Annual Report on Tax Expenditures for the current fiscal year, available at the following web address:

http://www1.nyc.gov/site/finance/taxes/annual-report-on-tax-expenditures.page

Tax Liability – The amount of tax for which a property owner is liable.

Tax Lien – If a property tax bill is left unpaid for an extended period of time it may become a tax lien that may be sold in a tax lien sale.

Tax Rate - The amount, usually expressed in dollars per hundred of assessed value, applied to the tax base to determine tax liability. In New York City, an overall tax rate is established, as well as, one for each of the tax classes.

Taxable Billable Assessed Value (TBAV) - The amount of assessed value remaining after application of any tax exemption.

Total Levy – The total taxable billable assessed value multiplied by the overall tax rate.

Transitional Assessed Value - The assessed value, during the five-year phase-in of equalization changes, of all Class 4 properties and cooperatives, condominiums and rental buildings with more than 10 units in Class 2.