OFFICE OF NASSAU COUNTY COMPTROLLER ELAINE PHILLIPS

FACT SHEET

December 2021

The Assessment Process in Nassau County and Audit of ARC

What You Need to Know

The Assessment Review Commission (ARC) is the agency Nassau County property taxpayers apply to in order to seek a review of their property assessment to possibly reduce their property taxes. This review is commonly referred to as a "grievance" or "appeal" and begins by filing an *Application For Correction of Property Tax Assessment* with ARC.

In 2018, the Office of the Nassau County Comptroller initiated an audit of ARC to review the systemic issues in the Nassau County Assessment and Assessment Review processes that drive a high volume of grievances and to review ARC's performance and methodologies utilized to process these reviews. This audit was an extraordinary undertaking due to the unique complexity of Nassau's current Assessment and Assessment Review process, which **is a broken system.**

Our Audit Found That Over a Billion Dollars in Property Tax Burdens Were Shifted While Firms Made Hundreds of Millions of Dollars Profiting off of a Broken System Due to the Complexity of the Assessment System and the Unprecedented Amount of Grievances

What we Observed

High Volume of Grievances

- An already high number of grievances filed with ARC grew higher during the "freeze" of the assessment roll, which lasted for a decade.
- The freeze affected the County's ability to properly value every property in a fair and equitable manner.
- The 2020/21 Tax Roll was reassessed for the first time in a decade at current market value and deemed accurate within professional standards, yet the volume of grievances submitted continues to grow.
- Nassau County's lack of a cyclical reassessment combined with the ability to grieve frozen values deteriorated the accuracy of values and the fairness of the final assessment roll.

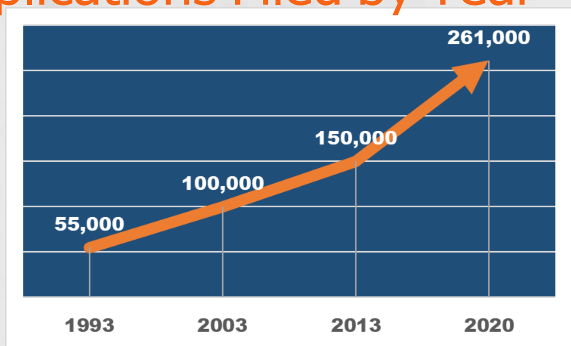
Tax Grievance Firms

- Firms that file applications for grievances billed residential property owners over **half a billion dollars** between 2012 and 2019 for their work reducing Assessed Values according to Auditor estimates.
- At the same time, Auditors estimate that fair market values actually *increased* by 34%.
- Increasing volumes of grievances that continually lowered the tax base *inversely* increased annual tax rates paid by all taxpayers, even during the "freeze."
- Over a billion dollars in property tax burdens were shifted through this process.
- Firms based fees on what auditors define as "Perceived Tax Savings" in that as more properties successfully appeal, the actual tax dollar savings of each AV reduction decreases because the final tax rate paid by everyone on the Roll continues to increase, including those that appeal.

Inequitable Disparity of Assessed Values

- The application of a different ratio, known as LOA (Level of Assessment), to properties which sought a review and not to property owners that did not seek a review, caused disparity in frozen Assessed Values, shifting the tax burden.

Number of Grievance Applications Filed by Year



Approximate Numbers, based upon reporting in Nassau County's Comprehensive Annual Financial Reports.

$500,000,000

Amount Grievance Firms Billed Residential Property Owners

Auditors estimate between 2012 - 2019

The Impact of Assessment Reductions on Property Tax Rates

It's Complicated, Here's a Breakdown

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- Property tax calculations are based on the final roll of assessed values established by the Department of Assessment.
- A property's tax is calculated based on its assessed value adjusted for qualifying exemptions and multiplied by the applicable taxing authority's property tax rates.
- Tax Rates are calculated separately for each taxing authority by apportioning its levy to the taxable value of the Final Roll.
- Each property's proportionate share of the tax levy is based on its final Assessed Value compared to the total Final Roll within the applicable district.
- Once a taxing jurisdiction sets its tax levy for the ensuing year, that approved amount of taxes will be collected.
- Reduction to Assessed Values through the grievance process, does not impact the *total* amount of taxes to be collected - it merely SHIFTS the taxes to be collected to other properties, through an adjustment of tax rates.
- In other words, the total Tax "pie" doesn't change, rather the size of the pie slices paid by each property owner shifts.

- From 2012 to 2019, successful appeals continually reduced the frozen tax base resulting in what auditors estimate to be an **overall tax rate increase of 46%** while the **average Tax Levy only increased by 12%.**
- The large increases in tax rates were primarily a result of the constant reduction in the "frozen" tax base from the high number of grievances filed and not necessarily due to budget increases.
- These higher tax rates were paid by all property owners, including those who successfully grieved.
- Nassau County's levy only increased 6% over seven years.
- The total levies for all taxing authorities within the County (including schools and special districts) increased 12%.
- The estimated Residential tax rate increased 46%.

As more and more properties grieve, the benefit of successful grievances for the entire tax base as a whole decreases, while the grievance industry continues to benefit through fees billed.

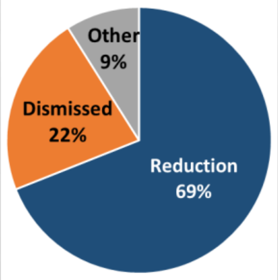
Snapshot of the Process

- Property Tax is an "ad valorem tax" meaning it is imposed against the value of property.
- In Nassau County, the Department of Assessment is responsible for establishing fair and equitable assessment of all properties in their jurisdictions on an annual basis.
- If someone disagrees with their assessment, they may request a review of their property assessment by filing an *Application for Correction of Property Tax Assessment with* ARC.
- These Applications, often called "grievances." may be filed by a property taxpayer
    1) as a "pro se filer", filing on their own at no cost;
    2) as authorized by an unpaid representative to file; or
    3) by retaining representatives known as "Grievance Representatives or Firms" for an agreed upon fee.
- ARC will review the Applications, and may reduce a property's assessment, but will never increase the assessment.
- Property taxpayers that are not satisfied with ARC's administrative determination may apply for a Judicial Review through NYS Small Claims Assessment Review (SCAR), provided they meet guidelines set by SCAR.

Percent of Properties that Appeal Assessment

National Average 3%
Nassau County 62%

On Average, 69% of Nassau County Residential & Commercial Appeal Applications are Granted a Reduction



Auditors estimate average between 2015/16 to 2019/20

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The County Guarantee 1948

The "County Guarantee" was established by NYS law in 1948. Nassau County is:

- responsible for determining assessments for most taxing jurisdictions in the County, AND
- responsible for the ENTIRE liability associated with property tax refunds on behalf of the towns, special districts and all but one school district, for 250 other taxing jurisdictions located within the County (i.e. school districts, sanitation districts, etc.)

What does this mean to Nassau County taxpayers?

- If a grievance is not settled before taxes are calculated, Nassau County is responsible for refunding any excess taxes collected, the majority of which were not revenues received by the County, but for other taxing jurisdictions.
- The Guarantee allows other taxing jurisdictions to continue to receive and retain their entire tax levy while any refunds, as a result of County overassessment, are paid at the expense of the County property owners.
- As a result of the County Guarantee, for every dollar refunded, Auditors estimate that Nassau County pays five times as much as it received.

The County Guarantee resulted in excessive tax refunds and related long-term debt and continues to contribute to tax shifts and destabilization of assessed values exposing the County to further potential liability.

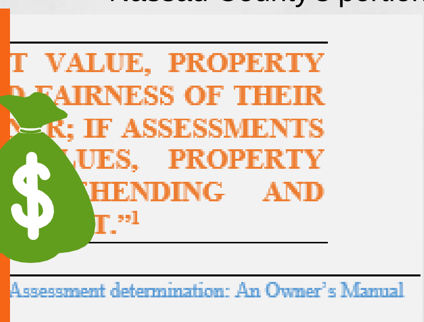
Spotlight on Property Classes in Nassau

There are four "classes" of real property in Nassau County. Separate tax rates are established for each of the four classes.

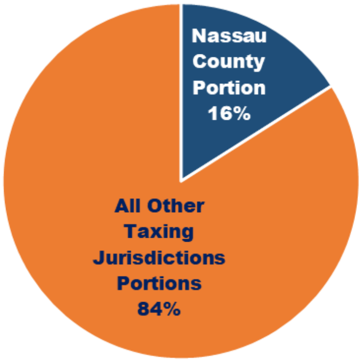
Class 1	Includes one, two and three-family residences, residential condos and certain residential vacant land.
Class 2	Includes residential property other than Class 1, i.e. apartments.
Class 3	Includes public utility property.
Class 4	Includes property not included in Classes 1, 2 or 3

Did you Know?

Nassau County's portion of



the overall tax rate is only approximately 16%, with the remainder of the overall revenues going to other taxing jurisdictions, yet Nassau County is responsible to refund 100% of the tax overpayment.


Nassau County Portion 16%
All Other Taxing Jurisdictions Portions 84%

Policy Recommendations to the County Executive & County Legislature

We recommend that the County Executive and the County Legislature, in coordination with the appropriate New York State agencies and representatives (such as the Office of Real Property Tax Services), create a Commission to study and make recommendations, legislative or otherwise, to address the systemic issues noted in this report.

Issues to be reviewed should include:

- The County Guarantee;
- The Special Assessing Unit status of Nassau County;
- The application of Level of Assessment (LOA) and the use of Full Market Value;
- The Halpern Stipulation and Order and the resulting separate Level of Assessment;
- Cyclical reassessment;
- The special exemptions or “Caps” in place under New York State Law;
- The licensing and regulation of Representative Firms; and.
- Mitigation of the economic impact to taxpayers of any proposed changes.

Audit Recommendations for ARC

Our audit of ARC identified a number of issues which should be addressed. We recommended:

- ARC work with County Officials to develop a strategy to reduce grievance volumes so that they are more in line with the national average and to ensure they reflect the current rules that ARC should follow;
- ARC discourage unauthorized filings and duplicate filings by charging a processing fee for each Application filed by Representative Firms;
- ARC develop and propose regulations to limit the ability to grieve for following any type of Assessed Value reduction between reassessment years; and
- ARC develop guidelines to regulate non-attorney Representative Firms (including licensing requirements, advertising guidelines, fee limitations, debarment procedures).

Spotlight on Level of Assessment (LOA)

The Level of Assessment (LOA) is the percentage of full value at which properties are assessed within a community. For example, a LOA of 50% would indicate that assessments are at half of the Department of Assessment's estimated market value.

- All properties within a class should be at the same Level of Assessment (LOA).
- Our audit observed that ARC is required to apply a separately negotiated LOA to only properties which sought a review.
- The result of applying a separately negotiated LOA to only those properties that grieved and not all properties within the same class was that the Final Roll was effectively not assessed at a uniform percentage of value.
- Property owners who did not know a separate LOA was negotiated, may not have filed grievances.
- The combination of a frozen roll and separately negotiated LOA caused similar properties with similar market values to have disparate assessed values, shifting the tax burden, from those that grieved to those that did not.
- **LOAs should been applied equally throughout the same property class.**

Read the Full Audit at: https://www.nassaucountyny.gov/DocumentCenter/View/35832/Review-of-Residential-Property-Procedures-and-Controls-of-ARC?bidId=