New York's real estate tax syndrome: Are taxpayers becoming more accepting of high real estate taxes? - by John Rynne

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The issue of high real estate taxes in New York State (NYS) used to be covered by numerous media outlets as interesting and an "attention getter" news story. Maybe it's my imagination that the coverage on this topic has diminished. It is possible that our senses have become numbed by the overexposure of this problem in NYS over past decades. Has the public in NYS finally accepted this burden of high real estate taxes? There is a theory out there that some issues go through various stages. First there can be ridicule and sarcasm of the issue, followed by denial. Then there can be anger and finally acceptance. My sense is that taxpayers are in the last stage of "acceptance." Some small comparison could drawn to that of the Stockholm Syndrome. According to Wikipedia, "Stockholm Syndrome is a condition which causes hostages to develop a psychological alliance with their captors during captivity. These alliances result from a bond formed between captor and captives during intimate time together, but they are generally considered irrational in light of the danger or risk endured by the victims." Are the captors the taxing authorities and are the taxpayers the victims?

Why are tax payers being more accepting of high real estate taxes?

There are some logical and coherent answers to this question. Besides the overexposure of the problem, the taxing authorities have devised legitimate ways to soften the short term burden of real estate taxes. The taxing authorities created numerous tax abatement programs which originated in the late 1960's and early 1970's. Some of the first NYS programs were the Business Investment Exemption (BIE) programs for non-residential real estate. The most popular was the 485b BIE program which grants an assessment exemption on new improvements of 50% in the first year which is reduced 5% per year until after 10 years the abatement is 0%. There were other 485 BIE programs which were more beneficial to investors. Some of these programs were used in conjunction with payments in lieu of taxes; referred to as "PILOT" programs. PILOTs also enabled low-income and senior multiple family projects to benefit from lower real estate taxes. One of the more recent abatement programs in the urban areas of NYS is the Conversion Urban Exemption (CUE) program which is a 13-year abatement program. This program reduces the assessment on new improvements for older buildings being converted to mixed use commercial and apartments. Over the first eight years there is 100% exemption on new improvements. In the ninth year there is an 80% exemption followed by 60%, 40%, 20%. In the 13th year the exemption is 0%.

Taxing authorities also have used state and federal income tax credits as a major tool in encouraging development. This effectively gives developers and their investors “free” money by selling tax credits. The “free” money from these tax credits sometimes is lucrative enough that the developer has significant profit during the initial construction and are not concerned about the full impact of the real estates taxes after various real estate tax abatements have expired. Remember, most of these programs don’t expire for 10-13 years. I’ve seen PILOT programs which have a shelf life of 50 years–some of which can be renewed. Besides tax credits, taxing authorities indirectly can make available “interest only” loans which may not have to be paid back if the cash flow of the project cannot accumulate enough excess to retire the debt. Also, there are outright grants especially for job creation and/or affordable multifamily housing projects. These benefits dampen the the developer’s concerns for future high real estate taxes.

One of the most recent taxing authority programs which benefit investors is Opportunity Zones, (OZ) which effectively decrease not real estate taxes but instead capital gains tax on projects if they are held for more than the short term. The Jobs Act and Tax Cut federal legislation which was passed in late 2017, created some taxpayer rumblings in high taxed states which reduced deductibility of interest and property taxes for many property owners. This latest controversy is referred to as State And Local Taxes (SALT). The reduction of the ability to write off SALT has awakened many taxpayers to the issue of detrimental high property taxes. In fact, recently there have been indicators of high-end living units–especially in New York City–of worsening appreciation and absorption of units. In summary, this may reduce developer acceptance of the tax syndrome in NYS, but not substantially.

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