



## **Nassau County to pay property tax refunds, but landscape remains complicated and ever-changing**

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Many owners in Nassau County who successfully protested their property taxes have been waiting for quite some time to receive their refund check. For some, the wait is finally over. The Nassau County Legislature approved the issuance of bonds totaling \$125 million in 2014, and agreed to \$60 million in each of 2015, 2016, and 2017 to reduce the over \$300 million accumulated tax refund liability. Final approval of this bonding was given by the Nassau Interim Finance Authority (NIFA) on Monday, November 24th which means refund checks will begin to be issued before the end of 2014. The significant delay in issuing these checks is the product of successful property tax appeals far exceeding the amount allotted for this item in the county's annual budget. Additionally, the "County Guarantee" requires the county to refund all portions of the tax bill, including school taxes. In other jurisdictions, such as Westchester County, when a tax challenge is successful, the county refunds the applicable portion of the county taxes, the towns refund the town taxes and the school districts refund the school taxes. The County Guarantee forces the county to paying property tax refunds for money the county never actually received. This burden became so significant that it necessitated bonding for these funds.

Nassau County believes the current bonding schedule, along with a proactive handling of large exposure cases, will allow them to address future liability as it occurs. Additionally, legislation passed earlier this year created a "Disputed Assessment Fund" that will be funded by commercial property owners who challenge their assessments. This fund is intended to eliminate the county's need to borrow for future property tax refunds. The legislation was recently signed into law by the governor, and this new system will begin to impact liability resulting from the 2016/2017 assessment roll.

The Disputed Assessment Fund system has received praise from fiscal watchdogs and rating agencies, but has been sharply criticized by others, with even the constitutionality of the system being brought into question. Governor Cuomo has proven to be proactive in regards to property taxes, having previously spearheaded the 2% tax cap legislation. Now that the governor has signed the Disputed Assessment Fund legislation into law, it will be important to see if the law is challenged by property owners, school districts or any other interested group.

The primary concern of property owners in Nassau County remains the high total tax amounts at their property. Nassau County continues to have the highest tax burden in the country and while some properties have seen rents improve, the prospect of carrying a vacant space with such a significant tax burden is something that has caused many developers to look away from Nassau County.

In the past, Nassau County has implemented a number of systems in an attempt to address the high tax burdens. However, these programs have often caused more uncertainty for the taxpayer. The

county's most recent assessment revaluations, aimed to update values of commercial properties at current market values, resulted in inaccurate assessments and increased tax grievances.

Nassau also has a four class system of assessing property which causes for multiple ratios and tax rates for each class of property that can confuse potential buyers. Even efforts aimed specifically at making the tax burden more manageable, such as the transitional assessment program which requires an assessment increase to be phased in at 20% per year over five years, is sometimes not easily understood to an outside investor.

The fact that Nassau County is attempting to clear its backlog of liability is a positive step for property owners in the county. However, the implementation of the Disputed Assessment Fund is a development that must be watched closely. The program essentially applies an additional tax for those disputing their taxes which could have a negative impact in both keeping and attracting investment in the county.

Nassau County's assessment system is already a tremendously complex one. Just as the county has begun to address the refund issue and become more proactive in correcting assessments, it would be unfortunate if those positive steps were counteracted by a program that added an additional layer to an already complicated process.

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