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Taxing inequities: Effects of cap on residential property increases vex policymakers

By Thom Cole | tcole@sfnewmexican.com Feb 9, 2019

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Canyon Road home. Tax break: $11,800. Thom Cole/The New Mexican

Nearly two decades ago, the state installed a sweeping law that limited increases in property taxes in hopes of protecting longtime homeowners in neighborhoods like Santa Fe's east side from being taxed out of their residences as wealthy newcomers moved in and drove up property values.

Under the law, which applies statewide, the market value of a residential property for tax purposes cannot be increased more than 3 percent a year as long as the owner of the property remains the same. Once the property is sold, it is brought to full market value for tax purposes.

Lawmakers were warned the law, which took effect in 2001, would create an unfair property tax system, with tax breaks for some and not others. But while there have been many complaints and court challenges, policymakers have struggled to find an alternative that would both be fair to all taxpayers and continue to protect longtime residents of gentrified neighborhoods.

In Santa Fe, a primary target of the tax reform because of its hot housing market, the inequities created by the law are stark. A *New Mexican* analysis of data on city property valuations found:

• Nearly 26,000 homeowners received a tax break last year because of the law, but about 8,900 didn't.

• Newer homebuyers often may pay substantially more in property taxes than their neighbors.

• The average tax break last year for the owner of a home valued at $300,000 or less was $221.

• The average tax break in 2018 for the owner of a home valued at $1 million or more was $1,345.

• The biggest tax break last year for a homeowner was more than $16,000.

• The homeowners who received the biggest tax breaks in 2018 included a corporation, investment bankers, business entrepreneurs, a Texas oilman, a psychologist, artists, a physician, a lawyer and a philanthropist.

• Eighty-one owners of multiresidential properties got a tax break in 2018, but 105 didn't.

• A California real estate investment company that owns a large south-side apartment complex and a Tennessee company that owns a senior living center each received a tax break last year of more than $40,000.

"It seems like this is charity going the wrong way," said Mike Loftin, CEO of Homewise, a nonprofit that works to place families in homes. "I thought this was supposed to be benefiting modest-income homeowners."

Other critics of the property tax law include Santa Fe County Assessor Gus Martinez, whose office values property for tax purposes.

"When someone is not paying their fair share of taxes, the burden falls on the rest of us," Martinez said.

State Senate Majority Leader Peter Wirth, a Democrat whose district includes the east side of Santa Fe, agreed the law has resulted in unfairness in how property taxes are levied, but he said he hasn't seen an alternative that would continue to protect longtime homeowners in neighborhoods such as the east side.

"We value some of the traditional families that formed the fabric of this community," Wirth said. "Do you want to force that family to have no choice" but to sell its home?

The senator said he would be open to considering proposals that would roll back the property tax break for owners of large multiresidential properties.

A $16,500 break

To assess the effects the 3 percent cap on annual market valuations has had on tax bills for owners of Santa Fe residential properties, *The New Mexican* requested data from the Santa Fe County Assessor's Office under the state Inspection of Public Records Act.

For each residential property in the city, the office provided the name of the owner, the address, the market value as set by the Assessor's Office and the market value, if any, excluded for tax purposes because of the 3 percent cap.

The data show 8,904 homeowners scattered throughout the city were assessed property taxes last year on the full market value of their properties. In neighborhood after neighborhood, there were cases in which newer homebuyers paid more in taxes than longer-term owners of similarly valued properties.

Owners of 25,662 homes in the city received a tax break in 2018 because of the 3 percent cap. The tax reductions ranged from a few dollars to thousands of dollars. The average was $487.

The single-family residence that received the biggest tax break last year is on West Alameda Street. The market value of the corporate-owned property was $2.8 million, but its value for tax purposes was set at less than $800,000 because of the 3 percent cap. The tax savings for 2018 was about $16,500.

The residence was one of 14 homes that received a tax break last year of at least $8,200. The other homes all were on the east and north sides — on exclusive streets such as Canyon Road, Circle Drive, Cerro Gordo Road, Old Santa Fe Trail and Garcia Street.

But the 3 percent cap has succeeded in holding down property taxes for some longtime families on Santa Fe's east side, as well.

Edward "Gonzo" Gonzales, a former city councilor, said his tax cut — nearly $4,000 last year — has helped him and his wife, Patricia, remain at the Delgado Street property once owned by his grandmother.

"I've never known any other place than this place," said Gonzales, 83, sitting at a kitchen table in his home.

Despite the tax relief, some longtime families on the east side have sold out. Others rent their properties. A long-term family in the neighborhood recently put a home on the market for $1.6 million. The property was taxed last year at a value of about $609,000.

Gonzales said the area used to be 90 percent Hispanic. "We're now the 10 percent," Gonzales said.

Wirth said the neighborhood of Apodaca Hill, off Upper Canyon Road, shows the law has worked as intended.

"It's an incredibly diverse mix and fabric, and one of the neat neighborhoods in our city," the senator said.

Nearly all of the 55 homeowners on Apodaca Hill, many of them with Hispanic surnames, received tax breaks last year because of the 3 percent cap on annual increases in market valuations for residential properties.

'Unlevel playing field'

When it came to multifamily residential properties, the biggest tax break in 2018 went to Talavera Apartment Homes on South Meadows Road, just off Airport Road.

A company formed by NALS Apartment Homes, a real estate investment firm based in Santa Barbara, Calif., owns Talavera.

Last year, Talavera had a market value set by the Assessor's Office of nearly $18 million, but the property was taxed on a value of $12.8 million because of the 3 percent cap on annual market value increases for residential properties. The tax break was about $42,000.

“Why are investment properties benefiting from this?” asked Loftin of Homewise. “The value of their property is going up. Presumably the value of their rents is going up. Why isn’t their tax going up with it?”

NALS Apartment Homes didn’t respond to a request for comment.

Brookdale Senior Living of Nashville, Tenn., owner of Brookdale Santa Fe on Alta Vista Street, received the second-biggest tax break in 2018 for a multiresidential property.

The Brookdale property had a market value of more than $12.4 million last year, but it was taxed on a value of $7.4 million. The tax break amounted to about $41,000.

Brookdale declined to answer questions about the fairness of the tax break and what would happen if it had to pay taxes on the property’s full market value.

“You’re asking questions that are best answered by the government officials who enacted the legislation you are writing about,” a company spokeswoman said in an email. “We are confident that the elected officials, who also serve citizens of Santa Fe, have a broad perspective and the best interests of all in mind.”

Competitors of Talavera and Brookdale were among the more than 100 owners of multiresidential properties that didn’t get a property tax break last year.

“It sounds as though it’s an unlevel playing field,” said Simon Brackley, president and CEO of the Santa Fe Chamber of Commerce.

But Brackley cautioned that an owner of a multiresidential property would increase rents to offset a jump in property taxes.

“We want fairness when it comes to tax payments by everyone,” he said. “But in today’s housing shortage, housing crisis, avoiding anything that will increase the price of rent is desirable.”

Wirth, the Senate majority leader, said there might be a way to roll back the tax break for some owners of multiresidential properties.

“When it starts to get into a commercial enterprise, it does seem to be a different argument” for eliminating the tax break, he said.

‘Not fair and equitable’

Critics of the 3 percent cap say it was well-intentioned.

“There were real and compelling stories about potentially people not being able to hold on to their homes,” said James Jimenez, executive director of New Mexico Voices for Children and a former head of the state Department of Finance and Administration.

But Jimenez said the potential impacts of the cap weren’t sufficiently analyzed when it was enacted.

Martinez, the Santa Fe County assessor, acknowledged the cap works for longtime homeowners of modest means. “But it’s not fair and equitable across the board” to other owners of residential properties, he said.

Loftin said the 3 percent cap has resulted in a regressive property tax system that has outlived its purpose.

“I don’t know why this was considered a progressive thing when it was done,” he said.

State Treasurer Tim Eichenberg, a critic of the law that set the 3 percent cap, said elderly homeowners who want to downsize may be discouraged from doing so because they could face higher property taxes with the purchase of a new home.

Martinez said that if government wants to help longtime homeowners of modest means stay in their homes, it should tax all residential properties at full value, then provide targeted tax relief for those homeowners in need.

Jimenez and Loftin agree.

“We should have a way more rational tax policy,” Loftin said.

State law gives counties the option of rebating up to 75 percent of the property taxes paid by individuals with modified gross incomes of less than $24,000 a year. Santa Fe County is the only county that has exercised the option, according to Santa Fe County Manager Katherine Miller.

Low-income homeowners who are disabled or who are age 65 or older also can have the market value of their properties frozen for tax purposes.

Lack of support

Since the 3 percent cap was enacted, there have been unsuccessful attempts in the Legislature to amend the law.

Eichenberg, as a state senator, tried in 2012 to do away with the requirement that newly purchased homes be taxed at full market value. That would have ended the cases in which the buyers of new homes pay more in property taxes than neighbors benefiting from the 3 percent cap. The Senate approved Eichenberg’s bill, but it never made it out of committee in the House.

In 2013, the Legislature rejected a bill that called for all residential properties to be taxed at 90 percent of market value, with increases in annual valuations limited to 5 percent.

That legislation was backed by the county assessor affiliate of the New Mexico Association of Counties, but assessors have since backed off from seeking changes to the 3 percent cap.

“It was really difficult to find any support in the Legislature for fixing it, for changing it,” said Miller, the county manager and chairwoman of the tax policy committee for the Association of Counties.

She said lack of support for changes in the 3 percent cap is likely the result of two major factors.

First, there are a lot of residential property owners who benefit from the cap, Miller said. Second, while the 3 percent cap has a major impact in Santa Fe, that’s not the case in rural or other areas where property isn’t appreciating in value that fast on an annual basis.

There’s simply not a lot of impetus for lawmakers to amend or eliminate the 3 percent cap, she said.

Wirth and others say the effects of the cap have led to sharper inequities in Santa Fe County in part because the market values of properties weren't current when the law was enacted.

The senator said he is sympathetic to both sides of the arguments surrounding the law that set the cap: that the law is unfair but provides needed tax relief to longtime residents in neighborhoods where property values have increased rapidly.

"That's the challenge. How do we find the right solution? I just haven't seen it yet," he said.

Side-by-side comparison

Number of residential properties

east side: 11,410 | west side: 23,156

Average property market value

east side: $512,119 | west side: $204,864

Average property tax break

east side: $561 | west side: $263

Source: *New Mexican* analysis of market valuations set by Santa Fe County Assessor's Office for city residential properties

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House committee debates bill eliminating tax break for apartments

By Thom Cole | tcole@sfnewmexican.com Feb 26, 2019

The elimination of a property tax break for apartment owners would lead to higher rents and force some owners out of business, representatives of the rental industry told a committee of state lawmakers Tuesday.

But supporters of legislation to wipe out the tax break countered that the potential effect on rents is unclear, that property taxes would decline for some apartment owners and homeowners, and that the bill would encourage development of new rental housing.

“There will be some winners and losers here, but overall it will be a fairer system and more rational system” for levying property taxes, said Mike Loftin, CEO of Homewise, a Santa Fe nonprofit that works to get families in affordable homes.

The House Local Government, Land Grants and Cultural Affairs Committee didn’t act on the legislation, House Bill 647. The committee is scheduled to resume consideration of the bill Thursday morning.

The legislation would roll back some of the property tax breaks the state enacted in 2001 to protect longtime homeowners in neighborhoods like Santa Fe’s east side from being taxed out of their residences because of rising property values.

Homes that are primary residences for their owners would continue to get the tax breaks, but tax cuts would be eliminated for multifamily properties and for homes that aren’t the primary residences of their owners. Starting in 2020, those properties and homes would be taxed at full market value.

Under the law enacted in 2001, the market value of any residential property cannot be increased more than 3 percent a year as long as the property owner remains the same. Newly purchased residential properties are taxed at full market value.

The law has resulted in longtime owners of residential properties paying less in property taxes — in some cases, substantially less — than owners of more recently purchased similar properties.

The legislation to limit the tax breaks to owner-occupied primary residences is the result of stories in *The New Mexican* on Feb. 10 that highlighted the inequities of the 3 percent cap nearly two decades after it was imposed.

The newspaper reported that an out-of-state owner of an apartment complex on the city’s south side received a tax break of about $42,000 in 2018, while owners of 81 other multifamily properties in Santa Fe received no tax cut.

The New Mexican also reported that out-of-state owners of several million-dollar-plus homes received substantial tax cuts.

Chuck Sheldon, CEO and president of T&C Management & Brokerage of Albuquerque, told the House committee that the 3 percent cap has created a “scab,” but that it shouldn’t be torn off all at one time.

Apartment owners whose taxes increase will pass along those costs to renters, Sheldon said. “We’re going to increase rates quickly all at one time,” he said.

Bobby Griffith, chief financial officer of JL Gray Properties and president of the Apartment Association of New Mexico, said owners of multifamily residential properties that have received federal tax credits or subsidies to provide affordable housing would be particularly hard hit. Rents at those properties generally couldn’t be raised to offset property tax increases, he said.

Joshua Smith, commercial division manager for Washington Federal bank, which makes loans for multifamily properties, said eliminating the tax break for apartments “would be bad for tenants, bad for owners and bad for our bank because we would see an increase in delinquencies and foreclosures.”

Rep. Matthew McQueen, a Galisteo Democrat and the bill’s sponsor, said he didn’t believe apartment owners would raise rents “dollar for dollar” to offset a property tax increase.

An analysis of the bill by legislative staff said claims that rents would increase “may or may not be true, since all markets are subject to supply and demand forces.”

“This increase in property taxes for some properties will not alter to any great extent the amount of personal income from which renters have the resources to pay rent,” the analysis says.

McQueen and Loftin said eliminating the tax breaks for some multifamily properties and homes that aren’t owner-occupied would mean additional tax revenue for counties and would lead to reductions in property taxes for other multifamily properties and owner-occupied primary residences. State law prevents counties from reaping large windfalls from sharp increases in taxable property value.

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https://www.santafenewmexican.com/news/legislature/house-committee-advances-bill-to-curb-some-property-tax-breaks/article_e703337b-6882-55e3-a793-a37bbd45ce17.html

House committee advances bill to curb some property tax breaks

By Thom Cole | tcole@sfnewmexican.com Feb 28, 2019

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Matthew Lobato of the Santa Fe County Assessor's Offfice uses a hand-held laser to make measurements Thursday at a new home.
Gabriela Campos/The New Mexican

A state House committee on Thursday approved legislation to eliminate a property tax break enjoyed by some owners of residential rental properties and second homes in New Mexico.

The Local Government, Land Grants and Cultural Affairs Committee OK'd the bill on a party-line vote, with Democrats backing the measure and Republicans opposing.

The measure would result in all residential rental properties and second homes being taxed at full market value. Some of those properties are now receiving large tax breaks because of a provision in state law that caps annual increases in market valuations.

The result of the legislation would be higher taxes for some rentals and second homes but not for properties already taxed at full market value. Taxes could even drop for some owners.

Republicans said they were concerned that landlords hit by higher property tax bills would pass along the cost to renters.

“This bill is a detriment to lower-income people,” said Rep. Rachel Black, R-Alamogordo, a member of the House committee.

But supporters countered that the legislation, House Bill 647, would help address the unfairness that has resulted from a law enacted in 2001 with the goal of preventing longtime homeowners in gentrified neighborhoods from being taxed out of their residences because of rising property values.

Under the law, the market value of a residential property cannot be increased more than 3 percent a year as long as the owner remains the same. A residential property that changes hands and new construction are initially taxed at full market value but are subject to the 3 percent cap in future years.

The law has resulted in recent buyers of residential properties often paying substantially more in property taxes than longer-term owners of similar properties.

The legislation approved by the House committee would not remove the property tax break for owner-occupied primary residences.

The New Mexican reported Feb. 10 on the inequities that have resulted from the 2001 tax breaks.

The newspaper identified several rental properties and second homes in Santa Fe receiving large tax breaks due to the 3 percent cap.

A California real estate investment company that owns a south-side apartment complex saw a $42,000 tax cut last year, and a Texas oilman received a $10,500 tax break on his $3.4 million estate on one of the city’s most exclusive streets.

The newspaper also identified newer buyers of rental properties and homes, including affordable housing, that received no tax cuts. Most owners of multifamily properties in Santa Fe didn’t get a tax break in 2018 because of the 3 percent cap.

Christie Humphrey, deputy assessor for Torrance County, told the House committee that the 3 percent cap wasn’t enacted to benefit corporate owners of rental properties.

“It was meant for the little old lady in Santa Fe who was being taxed out of her home,” Humphrey said.

Rep. Matthew McQueen, a Galisteo Democrat and sponsor of the bill to roll back the tax break for rentals and second homes, disputed that landlords hit with higher tax bills would pass along those costs to tenants.

McQueen also said owners of new rental properties are at a competitive disadvantage because they must pay higher taxes than landlords who have owned their properties longer.

He said owners of rentals and second homes whose properties are now taxed at or near full-market value could see tax reductions under his legislation. That’s because counties would be able to tax the full market value of properties now benefiting from the 2001 tax break.

Under McQueen’s bill, the property tax break for rentals and second homes would end in 2021. But several Democrats on the House committee said they want the elimination of the tax cut to be phased in to prevent a jolt to the rental market.

Immediately after the committee meeting, the lawmaker began discussing with county assessors how to address those concerns.

The president of the Apartment Association of New Mexico, which has opposed McQueen's bill, has said the group is open to a gradual removal of the tax break.

The property tax legislation, with a little more than two weeks left in the Legislature's annual regular session, now moves to the House Taxation and Revenue Committee.

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https://www.santafenewmexican.com/news/legislature/house-committee-stalls-effort-to-roll-back-property-tax-break/article_5f39819e-0a69-5a73-885f-a5944c2d986e.html

House committee stalls effort to roll back property tax break

By Thom Cole | tcole@sfnewmexican.com Mar 8, 2019

Legislation to roll back a property tax break for some residential rental properties and second homes remained stuck in a House committee with eight days remaining in the state Legislature's annual regular session.

The House Taxation and Revenue Committee was scheduled — for a third time — to consider the legislation Friday but again postponed acting on the measure, House Bill 647.

Rep. Javier Martinez, who was chairing the committee hearing, said legislative staff hadn't yet analyzed proposed changes to the legislation. Martinez, D-Albuquerque, said the committee could consider the bill Saturday.

But even if approved by the panel, chances were slim the measure could make it out of the House and through the Senate before the session's end, said the legislation's sponsor, Rep. Matthew McQueen, D-Galisteo.

Those odds could improve if the bill picks up substantial support, McQueen said.

The measure would amend a law enacted in 2001 with the primary goal of providing tax relief to residential property owners in gentrified neighborhoods like Santa Fe's east side.

Under the law, the market value of a residential property for tax purposes cannot be increased more than 3 percent a year as long as the owner of the property remains the same. A residential property that changes hands and new construction are initially taxed at full market value but are subject to the 3 percent cap in future years.

The law has been widely criticized for creating "tax lightning" for recent buyers of residential property, who often pay substantially more in taxes than longer-term owners of similar properties.

The New Mexican also reported last month that some longtime owners of residential rental properties and second homes in Santa Fe are receiving large tax breaks because of the law.

Under McQueen's legislation, only owner-occupied primary residences would continue to benefit from the 3 percent cap beginning in 2021.

McQueen initially proposed that all residential rentals and second homes be taxed at full market value beginning in 2021 but has since agreed to gradually phase in the process of bringing those properties to full market value.

Representatives of the apartment industry and some legislators said they feared a sharp rise in rents if property taxes jumped all at once.

McQueen said the 3 percent cap was never meant to benefit owners of residential rentals and second homes. He also said the removal of the cap for those properties would restore some fairness to the levying of property taxes.

While some multifamily residential properties in Santa Fe received substantial tax breaks last year because of the 3 percent cap, most of those type properties were taxed at full market value and received no tax cuts.

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