



LAUREEN HARRIS: 'Nassau County will always be the dinosaur looking for leaves as long as they have to pay for every taxing district's meal.' || Photo by Bob Giglione

Sticker shock

By: [David Winzelberg](#) January 20, 2017

As if the cost of doing business in Nassau County isn't high enough, it just got a lot more expensive.

Owners of commercial property in Nassau are finding some substantial spikes in the tax bills they're getting this month, sharply raising the tax burdens – and blood pressure – of the county's more than 23,000 commercial property owners and thousands of their small business tenants.

Dennis Stuckey, the owner of Hicksville Mini Storage, must now pay a lot more in taxes for his 35,000-square-foot building on 2 acres.

"My general tax bill increased from \$36,049 in 2016 to \$49,715 in 2017," Stuckey told LIBN. "I can't charge higher rent because the market doesn't warrant it. I think it's criminal."

Alexandra Troy also got a bigger tax bill this month. Troy owns a small mixed-use building in Greenvale where she operates her business, Culinary Architect Catering, which caters private, corporate and promotional events.

"My general taxes went up 30 percent, from about \$4,400 to more than \$6,000," Troy said. "It's ridiculous. Nassau County is so unfair to small business people. They're putting the small business owner out of business. If you drive down some of these streets you can see how many empty stores there are. It's not good for the neighborhood."

The tax increases, which average more than 30 percent for general taxes and at least 15 percent for their overall tax bill, are the result of Nassau's new Dispute Assessment Fund, which was enacted into law at the end of 2014 but didn't go into effect until the 2016/2017 tax year, beginning with this past November's school tax bill.

Under the DAF, commercial property owners who challenge their taxes are initially lulled in to a sense

of relief because they are required to only pay 90 percent of their assessment. However, come January 2017 that forgotten 10 percent of the school tax bill was added to the general tax bill, all at higher tax rates.



ALEXANDRA TROY: 'My general taxes went up 30 percent, from about \$4,400 to more than \$6,000.' || Photo by Judy Walker

The idea behind the DAF was to mitigate the county's tax refund responsibility and create a pool of money that would be tapped to pay for tax challenges from commercial property owners. Nassau then uses those funds to pay tax refunds, instead of having to borrow that money. Since 1992, the county has borrowed on average \$100 million a year to pay for commercial and residential property tax refunds.

The problem, however, is that because school districts and municipalities are now calculating their tax rates on just 90 percent of the commercial property tax assessments, all tax rates were dramatically increased causing the November school bill to look even with last year, until the January general bill came. Commercial owners were slammed with the forgotten 10 percent from the November school tax bill and an average school tax rate increase of all rates by at least 12 percent.

In fact in some school districts, like the North Shore School District, the tax rate for commercial property went up by 20.6 percent, while in Valley Stream School District 30, the tax rate for commercial property climbed by a whopping 26.6 percent. Attorney Don Leistman, a partner with Koeppel Martone & Leistman in Mineola, said because of the fine print in the DAF law, the county is escrowing more than 10 percent, in some cases, as much as 25 percent, collecting far more than they need for the inevitable tax challenge refunds.

"What they did was they probably over-funded this Ponzi scheme they set up," Leistman said. "They sold people a bill of goods and it's causing havoc with the tax bills."

Retail property owner Larry Weinberger, principal of Bellmore-based MGD Investments, just saw the property taxes jump 20 percent on the company's 30,000-square-foot strip center in Woodbury.

"The tax burden is extraordinary and the return on investment is disappearing," he said. Weinberger, who builds and manages mom-and-pop-occupied strip centers throughout Nassau, added that the county's higher taxes – approaching as much as \$15 a square foot for some properties – are "making it impossible for the merchants to make ends meet." And while the DAF has caused its own hardships, the county added insult to injury by issuing over 8,000 letters to commercial owners demanding substantial penalties for "failure to file" their required ASIE income and expenses statements with the Nassau assessor. Passed by the Nassau legislature in 2013, the ASIE law is riddled with technical failure scenarios, allowing the county to demand substantial penalties and impose automatic tax liens if not filed exactly correctly.

The penalties start at .25 percent of a property's fair market value and go up to .5 percent of the value if not filed correctly in 30 days. To make matters worse, the ASIE failure-to-file notices were mailed in December via third class mail, so many property owners were either on vacation or didn't receive them and do not know they are already being fined or have a tax lien.

Thousands of commercial property owners in Nassau have already received ASIE penalties which range from a few thousand dollars to several hundred thousand dollars, depending on the value of the property.

Attorney Laureen Harris, a partner with Cronin, Cronin, Harris & O'Brien in Uniondale, who also serves as president of the Association for a Better Long Island, has been challenging this law since February 2014 and obtained temporary restraining orders—including one this week—to keep the county from enforcing ASIE penalties. Harris' initial challenge to the law is in the Appellate Division and expected to be argued in a few weeks.

"These tax liens are dangling over every commercial property owner's head," Harris said. "It's a gotcha law."

It's also a windfall for the county, which projected a take of \$35 million in ASIE fines in its recently proposed budget.

Stuckey, one of Harris' clients, was hit with a \$5,109 automatic tax lien for failing to file his ASIE properly. Another of her clients, Kimco Realty, got a



GEORGE MARAGOS: 'We feel it has been handled unfairly to the commercial property owners.' || Photo by Bob Giglione

\$250,000 penalty for failing to file a proper ASIE on a Manhasset shopping center.

Attorney Kevin Clyne, a partner with the Herman Katz Cangemi & Clyne law firm in Melville, also went to court this week to file an injunction to stop Nassau from enforcing ASIE penalties.

"We're also seeking an injunction on DAF and attempting to strike down the whole program," Clyne said. "It's unconstitutional and it's a violation of due process. The county government thinks they can just keep dumping on the commercial property owners."

Nassau Comptroller George Maragos, who has also announced his candidacy for county executive, said his office is currently conducting an audit on the situation and he'd like to hear from as many commercial property owners as possible.

"We feel it has been handled unfairly to the commercial property owners," Maragos said. "We'll get to the bottom of it."

But county spokesman Brian Nevin defended the new taxing program. He said via email that the DAF will be a useful tool to better manage commercial property tax challenges.

"Each year, commercial property owners in Nassau County generate \$60 million-\$80 million in tax certiorari refunds," Nevin wrote. "DAF will properly maintain the costs of these refunds on commercial property owners and protect homeowners by ending their subsidy of commercial property owners' refunds."

SCHOOL DISTRICT TAX RATE INCREASES FOR COMMERCIAL PROPERTY	
SCHOOL DISTRICT	INCREASE FROM LAST YEAR
SEAFORD	12.17%
JERICO	12.19%
LYNBROOK	12.59%
LAWRENCE	12.61%
GARDEN CITY	12.63%
ROCKVILLE CENTRE	12.79%
HEMPSTEAD	13.27%
WEST HEMPSTEAD	13.34%
PLAINVIEW/OB	13.41%
WANTAGH	13.49%
NORTH BELLMORE	13.66%
LONG BEACH	13.67%
HEWLETT-WOODMERE	13.95%
CARLE PLACE	14.37%
ROSLYN	14.67%
VALLEY STREAM (24)	14.69%
LOCUST VALLEY	14.75%
MERRICK	14.86%
EAST WILLISTON	14.93%
VALLEY STREAM (13)	15.10%
ISLAND TREES	15.36%
NORTH MERRICK	15.46%
LEVITTOWN	15.76%
PLAINEDGE	16.53%
NORTH SHORE	20.65%
VALLEY STREAM (30)	26.64%

SOURCE: CRONIN, CRONIN, HARRIS & O'BRIEN

guaranty in 2010, but the state Court of Appeals ruled that Nassau didn't have the statutory or constitutional authority to scrap it.

"If we can get rid of the county guaranty, school districts would have to be a little more conservative and pay more attention to their spending," Clyne said.

Harris says it's an unsustainable system. "Nassau County will always be the dinosaur looking for leaves as long as they have to pay for every taxing district's meal," she said. "They're going to be desperate as long as this system is in place."

Kyle Strober, ABLI's executive director, disagrees with the county's stance.

"As is, Nassau County is a tough place to do business, where we are faced with high property taxes, high energy costs and an aging infrastructure," Strober said. "If allowed to stand, this unconscionable penalty would be another blow to our business community, ultimately affecting everyone from large corporations to mom-and-pop shops who call Nassau home."

Of course the root of Nassau's tax assessment troubles is the 1948 state law known as the county guaranty, which obligated the county – rather than schools, towns, villages and special districts – to pay any refunds resulting from successful challenges by property tax over-assessments. The guaranty allows schools and other taxing districts to receive tax dollars from over-assessments, yet does not require them to pay back tax refunds, putting that burden instead on the county. Nassau is the only county in the state with a county guaranty.

"Almost every administration has attempted to get rid of the county guaranty, but because of the politics and the lobbying efforts of law firms and school districts, it hasn't been done," Maragos said. In fact, current County Executive Ed Mangano and the Nassau legislature tried to repeal the county