

Eric Adams Fights Legal Challenge to NYC's 'Unfair' Property Tax

By Danielle Muoio Dunn2024-09-24T05:00:28156-04:00

In 2021, Eric Adams vowed to break years of bureaucratic inertia. He would finally — in his first year as mayor — fix a dizzying New York City property tax system blamed for exacerbating the city's housing crisis and perpetuating segregated neighborhoods.

"Billionaires are not paying their share of taxes, and this is an unfair system and we're going to fairly look at it," Adams said a month before winning a competitive Democratic primary. "Within the first year, we're going to come up with a real resolution to finally resolve this issue."

By almost any measure, the 40-year-old law has created a mess. Nearly identical homes in different neighborhoods can have dramatically different tax rates. Glitzy Manhattan condos and Brooklyn brownstones often face lower effective tax rates than properties in the Bronx or Queens. Renters unwittingly shoulder the cost of relatively higher tax burdens on apartment buildings.

Yet three years later, Adams' administration not only hasn't proposed any fixes, it's fighting a lawsuit aimed at correcting the imbalances he decried.

Adams' turn underscores a harsh political reality: Any plan is bound to raise taxes on voters that have long benefited from a flawed system. That would threaten voting blocs from downtown Brooklyn to upper Manhattan as a politically wounded Adams heads into next year's crowded Democratic mayoral primary.

By one estimate, almost 65% of one- to three-family homes would have their property taxes increase at least \$100 under one of the options being debated in court. Any reform plan would also have major implications for the city's largest source of revenue, amounting to \$32.7 billion last fiscal year.

"It's one thing to promise property tax reform. It's another thing to actually do it and have people focus on, 'Okay, am I going to be paying more or less' as they're deciding whether or not to vote for you," said Vicki Been, a New York University law professor and former deputy mayor of housing and

economic development under Mayor Bill de Blasio.

[YouTube: How 'Unfair' Property Taxes Crush New...](#)

The state could ease some of the inevitable fallout by rewriting the law that created New York City's system, phasing in any changes and adding protections for homeowners on fixed incomes. City Hall has said it prefers that approach. But that would require political capital from Adams at a time when his campaign and key aides face federal investigations — Adams has denied any wrongdoing — and, thanks to a court ruling earlier this year, the state has little incentive to act.

The city Law Department has fought for years to kill the lawsuit filed in 2017 by Tax Equity Now New York, a coalition of homeowners, renters, rental-property owners and public interest groups that claims the system discriminates against minority residents. A lower court tossed the case in 2020 but it was reinstated in March by the state Court of Appeals. State law gives the city the power to remove disparate tax burdens and it's "only a question of the City's willingness to do so," the court majority said.

Elected officials have assembled commissions and conducted studies over the years but their attention has focused on a patchwork of temporary solutions — including the passage of a tax break earlier this year to stimulate the development of affordable housing.

City Finance Commissioner Preston Niblack called broader reform a "legacy initiative" for the mayor in a May city Council hearing.

"The city is committed to meaningful legislative reform that is comprehensive and carefully considers the needs of working-class New Yorkers — not temporary changes that create dramatic tax increases and negatively impact city funding," Liz Garcia, a spokesperson for Adams, said in a statement. She added that the appeals court ruling "did not order the city to take any specific steps."

'Nonsensical comparisons'

One- to three-family homes make up nearly half the market value of all properties in the city but pay less than 15% of the taxes, according to the lawsuit.

State law restricts how much family homes' assessed value can grow each year. That limits how much tax can be collected from areas that have seen property values soar in recent years, like Park Slope in Brooklyn. Over time, that has shifted more of the tax burden onto areas that have experienced more moderate growth, such as Staten Island and the Bronx. Tax Equity Now New York is arguing the city could address this disparity by adjusting the percentage of a property's market value that is subject to tax — known as the target assessment ratio.

The legal challenge also faults how the city assesses condos and co-ops. State law says those must be valued based on their income-producing potential, not market value. Tax Equity Now claims the city uses “often nonsensical comparisons” that have allowed some \$4,500 per square foot cooperatives to be valued as if they were rent-regulated apartments, an approach that ultimately forces rental properties to foot disproportionate tax bills.

“The city continues to say things like we need Albany,” said Martha Stark, policy director of Tax Equity Now, who was city finance commissioner under Mayor Michael Bloomberg. “It's pretty clear that the court indicated that there are things that the city could do now to address some of the wildest inequities in the property tax.” (Bloomberg is the founder and majority owner of Bloomberg LP, the parent company of Bloomberg News.)

At a hearing in the state Supreme Court on Sept. 17, city attorney Andrea Chan said the changes sought by Tax Equity Now fail to consider “unintended consequences.” The city plans to circulate draft legislation next year that would allow for “more equitable distribution of the tax burden,” she said.

Even critics of Adams' inaction agree with the administration that a state rewrite of existing law is the best option to avoid major spikes for many residents.

City Comptroller Brad Lander, who is running for Adams' seat, said Tax Equity Now is correct that lowering the target assessment ratio for one- to three-family homes would help redistribute the tax burden. But without corresponding state legislation, the city can't enact protections for vulnerable homeowners, like income-based tax exemptions, he said.

In an August report, Lander said 64.2% of homeowners would see tax increases, averaging \$441, if the city lowered the target assessment ratio from the current 6% to 4%, without risking a hit to revenue.

It's “basically a political non-starter because you would risk driving thousands of working-class, home-

owning New Yorkers into foreclosure,” Lander said in an interview.

He added that improvements to the way the city compares condos and co-ops to rental buildings would only go so far.

“There’s no comparable rental to 220 Central Park South. It’s just it’s not meaningful to say, ‘find a comparable rental for that building,’” Lander said. The luxury tower has become a symbol of the city’s tax disparities since hedge-fund billionaire Ken Griffin in 2019 bought a \$238 million high-rise penthouse that has a lower effective tax rate than most outer-borough homes.

State reform would allow the city to move to a system that uses sales price, a more accurate measure of value, he added.

“It is entirely possible for City Hall to put a proposal forward before the end of the year and ask the legislature to take it seriously,” Lander said, adding he would “bring a proposal for comprehensive property tax reform to the state legislature in my first year.”

The city is running out of time to chart its own course. On Sept. 17, Acting Supreme Court Justice Gerald Lebovits set an Oct. 21 target for the city to respond to Tax Equity Now’s request for documents related to how it sets tax rates for one- to three-family homes, condos, and co-ops. He said he “wouldn’t mind” going to trial next spring, but didn’t set a date after city lawyers called that timeline “ambitious.”

City Council member Joe Borelli, a Staten Island Republican, says it would be easier for the state legislature to act if the city — whether on its own or by court order — did much of the work first. “If they’re limited in what they can touch, and what they can’t touch or have to touch, I think that makes it easier to pass the bill,” he said.

But without a significant push from Adams, there’s little incentive for the state to get involved, after the Court of Appeals dropped Governor Kathy Hochul’s administration as a defendant in the lawsuit.

“This is a New York City problem, this is a New York City issue, and I think she’s going to stay far away,” said Henry Zomerfeld, a senior associate for Hodgson Russ. Given what’s at stake politically, he said, the city may “want to take it all the way and roll the dice and say we’re not going to go down without a fight.”

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