A Proposal to Save Maine's Small Communities

The Maine Land Bank and Community Preservation Program

The Problem

The State of Maine currently faces a major problem: Taxes which many people are finding to be beyond their means. What used to be an anecdotally rumored problem has become a reality – people are being taxed out of their homes. The public sentiment has risen to the point where if action is not taken by the legislature, more draconian measures may be taken by the electorate.

Therefore, it is apparent that the Maine Legislature needs to take immediate action not only to serve their constituencies but to avoid citizen-initiated actions which, though well-intentioned, could cripple local and state government for some time to come.

Possible Solutions

Carol Palesky's Taxpayers Action Network has initiated a petition drive which almost completely duplicates California's Proposition 13. Regardless of whether this action has been a success or failure in California, this approach is bound to create chaos in Maine. The length of the chaotic period would be defined by the time it would take the state and local governments to adjust to the new "rules of the game." So while the specific requirements of this tax-cap proposal might be viable solutions, the implementation of the structure necessary to accommodate the new system may be more disastrous than the State can withstand. Nonetheless, this may be the direction taken if there are no forthcoming solutions from the Legislature. The fact that this movement has been delayed a year provides the time needed for action.

One element of Proposition 13 that may have promise for addressing the problem of rapidly escalating property values is a cap on increases in assessments, or Limited Market Value. As stated in Proposition 13, a base year is set for a valuation base and, from there forward, increases in property values are limited to either two percent (2%) or to the increase in the consumer price index, whichever is smaller. Property assumes full fair market value only when there is a change of ownership, which allows for inter-family transfers with no change in taxation status. There are no penalties assessed when property changes hands, but the taxes charged may change dramatically.

Several criticisms of this approach have emerged. First, like the other elements of Proposition 13, the impact on state and local revenue resources would be dramatic and negative, at least until adjustments to the system as a whole can be accomplished. Second, there is a perception of inequity in that two identical homes might be taxed at different rates, the only difference being the length of current ownership of the two homes. Thirdly, many perceive Limited Market Value to discourage purchase and sale of properties and discourage investment in improvements to existing properties.

What Other States Are Doing

Besides California, Massachusetts has adopted a true tax cap which limits the rate at which property can be taxed. Other states have adopted limited versions of tax caps. Michigan, for example, has limited the rate at which property can be taxed for educational purposes.

A total of thirteen states (Arizona, California, Iowa, Michigan, Minnesota, Montana, New Mexico, New York, Oklahoma, Oregon, Texas, and Washington) have some form of a Limited Market Value application in their tax codes. The range of the annual limitation is from 2% to 25%. Some states increase the assessment to full market value on transfer, some do not. Some states limit the application to residential property, while others include all properties, including commercial and agricultural. Florida's "Save Our Homes" amendment applies only to homestead properties and is, therefore, voluntary. Minnesota has instituted, rescinded, re-instituted and is now phasing out their Limited Market Value provisions.

Recommended Solution

It would seem that a large group of states have settled upon a reasonable approach that provides property tax relief. But these solutions are not without their problems. It may be that we in Maine have the answer in our own back yard – a variation on the agricultural and open space tax law. The philosophy of this section of the Maine Constitution is that various lands can be taxed on a basis other than fair market value. If land is taken out of one of these programs, the owner is obligated to pay some (if not all) of the difference in back taxes, plus interest, or an even more substantial penalty.

The same philosophy could be applied to other land classifications. An owner of residential or commercial land who doesn't intend to sell his or her land and may hope that it stays in the family for future generations could declare the land to be "Land Banked." A base value would be established equal to the five year prior assessment adjusted to 100% using the state certified ratio. Or, for more recently purchased land, the purchase price would be used. Increases in property assessment would be limited to two percent (2%) per year or to the increase in the consumer price index, whichever is smaller. Decreases could happen at any time. If circumstances change and an owner chooses to sell land banked property, back taxes (with interest) or a similar penalty would have to be paid before the property could pass with clear title. Land would remain in the program if transferred or sold to a direct relative or bequeathed to anyone.

This approach has several major advantages over a universal Limited Market Value program covering all properties:

- The program is completely voluntary and participants assume the risk that their plans might change (either willingly or otherwise), thus incurring significant penalties.
- Perceptions of inequity are balanced and offset by the risk involved.
- Disincentives to sell do not exist for those not enrolled in the Land Bank Program.
- Disincentives to buy would not exist for properties in the Land Bank Program which would not be on the market anyway, unless the owner so chose
- Since this program addresses land assessments only, building valuations would continue using present resale value methods.
- By encouraging land use preservation, this program could act as a sprawl inhibitor
- The impact on state and local revenues is limited.
- Withdrawn Land Bank participants will provide offsetting revenues to communities.

- This program could reduce expenditures in the circuit breaker program
- This program could replace the homestead exemption for properties in the program.

In addition, a Land Bank and Community Preservation Program would provide an incentive for families to remain within their communities. With these incentives in place, young people would be less likely to move out of Maine to seek their fortunes or would be quicker to return to Maine when properties were ready to be passed on. It can't be claimed that this program would completely solve the problem of Maine's youthful ex-migration, but it would provide a strong incentive to keep our young people in the State.

Summary

This proposal does not pretend to address all of the tax reform and budgetary issues currently faced by the State of Maine. Nor does it pretend to have "legislature-ready" language ready to present for a vote. Much work needs to be done. However, something must be done and done soon. Although it may sound threatening, the reality is that if our Legislature doesn't enact meaningful legislation soon, then other citizens may take action which will be detrimental to our state and communities.

The Maine Land Bank and Community Preservation Program addresses one and only one of the taxation issues faced by the State, that being dramatic increases in property assessments. It is not intended to compete with other proposed tax reform plans and, in fact, may work very well in conjunction with other measures.

The proposed program is a simple solution intended to involve only those who choose to avail themselves of the program. In so doing, it does not unjustly penalize any other segment of the population. As such, it is practically cost and revenue neutral.

Plus, the benefits for the entire population are significant. Not only will people be able to stay in their homes without fear of eviction by the taxman, but the communities they support will also be allowed to survive. People will be able to plan realistically for future taxes without fear of an unexpected and crippling increase. The program combats sprawl. A valuable additional dividend is that the long-term incentives provided by this simple program will encourage Maine's youth to remain in their home state.

This is legislation which needs to be passed and passed soon. It's good for Maine residents and their communities, it's good for Maine's businesses and it's good for the State of Maine.

For More Information

If you would like more information about the Maine Land Bank Proposal or if you would like to assist in passing this important legislation, please call David R. Hill at (207) 846-4664 or send e-mail to davehill@MaineLandBank.org. You may also visit our website at www.MaineLandBank.org, which includes an interactive Excel spreadsheet which allows "what-if" analysis of the program.

We are also willing to give PowerPoint presentations to municipalities and civic organizations describing the Land Bank and detailing its operation.

A quick example…

	1997	2002	2003		
	Actual	Actual	Current	Bank	Penalty
Land Value	91,400	253,200	310,433	100,913	
Building Value	73,300	73,300	73,300	73,300	
Total Value	164,700	326,500	383,733	174,213	
Property Tax	2,965	5,600	6,581	3,003	62,853

Over the long term…

	1992	1997	2002	2003	2010
Current system, current trends:					
Value	104,060	164,700	326,500	383,733	1,365,982
Tax	1,925	2,965	5,600	6,581	23,427
Maine Land Bank:					
Value				174,213	189,217
Tax				3,003	3,262
Penalty				62,853	271,319