

TOWN BOARD SPECIAL MEETING

Rutherford Hall
Village of Scarsdale
February 23, 2016

A Special Meeting of the Town Board of Scarsdale was held in Rutherford Hall of Village Hall on Tuesday, February 23, 2016 at 9:15 p.m.

Present were Ms. Pekarek; and Messrs. Callaghan, Finger, Lee, Samwick, Stern and Mark. Also present were Village Manager Pappalardo, Deputy Village Manager Cole, Assistant Village Manager Richards, Town Counsel Esannason, Custodian of Taxes McClure, Town Clerk Conkling, and Assistant to the Village Manager Ringel.

Mr. Mark presided.

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Mr. Mark stated that the Town Board is going to re-open the Public Hearing on the Local Law pertaining to the adoption of the Homestead Tax Option. Before the Public Hearing is opened, however, Mr. Finger would like to make a comment.

Mr. Finger stated that he received a request that he recuse himself from the discussion and vote on this issue because in his professional career, he represents cooperatives and condominiums outside of Scarsdale. He stated that he has thought about that request and has discussed it with the Village Attorney, among others. He stated that he does not represent and cooperatives or condominiums in Scarsdale and as a result at this point he did not believe that he has any conflict or needs to recuse himself. He further stated that he has come to this issue with an open mind and has listened carefully to everybody who has spoken and familiarized himself with the issues to a great degree both with the assistance of the Assessor, assistance of the representative of New York State Office of Property Services who attended the last Town Board meeting. Mr. Finger stated that he will continue to have an open mind and listen and not recuse himself.

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Public Hearing

Mr. Samwick stated the February 9, 2016 Public Hearing to receive comments on a proposed local law adopting the Provisions of Section 1903 of the Real Property Tax Law, Commonly Referred to as the "Homestead Tax Option" will be re-opened.

Mr. Samwick gave a brief description of what is being addressed. He stated that the Homestead is a Tax Option that is a local option authorized by the State and it happens when there is a reassessment. As another reassessment is being done in 2016, it is again time to address this. Homestead really involves a classification of properties on the Town's roll and its intent is to make sure that when doing a reassessment, that there is balance between residential and commercial properties. There is, however, a provision that can also pertain to condominium units. In Scarsdale there are 42 condominium units all located at Christie Place and that would be what is being addressed here this evening. That would be the method of valuing those 42 units; whether using a market based approach or a commercial income based approach.

Mr. Samwick opened the public hearing at this time.

Robert Berg, 32 Tisdale Road, stated that he was the person that requested that Mr. Finger recuse himself in this matter and he is disappointed in his decision. He stated that he feels because Mr. Finger represents approximately 50 condominiums and co-ops in Westchester in a number of Towns that are undergoing revaluation, a decision here may impact his clients and therefore he did not think it was appropriate for him to participate in this decision. He continued, stating that he thought it might be a matter for the Board of Ethics to consider if he decides to participate. There is no direct conflict, but there is certainly an appearance of an impropriety to him, as a lawyer. Mr. Berg renewed his request that Mr. Finger recuse himself from any vote on this matter.

In response to his comments last time, Mr. Stern kept talking back stating that the Christie Place condos are just like co-ops in Town and should be treated as such for tax assessment purposes. Mr. Stern is both factually wrong and misses the point of the reval. Properties with similar fair market values should pay about the same in property taxes be they condos, co-ops, houses, etc. As to co-ops versus condos in Scarsdale, the Christie Place condos are in a class by themselves. There are no co-ops in Scarsdale that have anything like the features and amenities of any of the Christie Place condos.

Mr. Berg stated that the Board has the power and the obligation to eliminate disparate tax treatment of properties that have the same fair market value. The Board cannot justify giving the Christie Place residents a 50% discount on their Village and School taxes, a discount that 5300 other Scarsdale homeowners do not get and that nearly all other Scarsdale Seniors don't get.

He further stated that it was a myth that the Village cut a deal with Ginsburg to keep the taxes low at Christie Place in exchange for Senior Housing and the Village garage and a Police Substation. Before his retirement, then Village Manager Al Gatta confirmed that there was no such deal. The deal with Ginsburg was that in order to build Christie Place he had to build a public garage and a police substation. There was never any deal on property taxes and condo offering documents expressly state that developer makes no representation about property taxes present or future.

The other myth is that Christie Place condos deserve a tax break because they have continuing obligations under a ground mortgage and that the apartments are restricted to residents 55+ years of age which makes them difficult to sell. Mr. Berg stated that these condos are very easy to sell. These unique condos will always be in great demand, and more importantly, the fair market value of these apartments fully reflect any restrictions and obligations on them – this is incorporated into their fair market value.

Mr. Berg stated that the Town Board is the gatekeeper as to whether or not the School Board gets to consider the adoption of the Homestead Tax Option. If the Town Board says 'no', they disenfranchise the School Board from making this very important decision. Since the school tax accounts for most of the property tax burden, isn't it unfair of the Town Board to disenfranchise the School Board from making this decision?

Mr. Berg stated that the Advisory Council on Scarsdale Senior Citizens has unanimously urged the Town Board to adopt the Homestead Tax Option. They are closest to this issue and understand how unfair it is for the Town Board to discriminate in favor of the Christie Place condo owners. He again asked the Town Board to adopt the Homestead Tax Option.

Mr. Stern asked Mr. Berg if he knew the tax amount that the co-ops pay. Mr. Berg responded that it is irrelevant. Mr. Stern stated that if he is making comparisons then in the sense of fairness he should find out what the co-op pays in taxes and the corresponding taxes that the condo pays. Mr. Berg stated that the law does not allow co-ops to be taxed at fair market value. There is no question that the co-ops are getting a break, and if he could he would raise their taxes too.

Mr. Stern stated that if you are going to make a comparison and state that the thought process of comparing co-ops to condos is incorrect, you should back it up with some real numbers – not just the selling price of the co-ops but the actual taxes or effective taxes that the co-ops pay and the effective taxes that the condos pay. Mr. Berg stated that he does not have that information but perhaps the Town Assessor can provide it. Mr. Mark asked Mr. Stern to ask that information of the Assessor.

Peter Spitz, Christie Place, stated that he would like to express his opinion on the Homestead Tax Option and in doing so speak to the issue of fairness. He read from a letter he submitted to the Board in which he compares co-ops, condos, and single family residential properties. He states that neither co-ops nor condos are being taxed specifically on the basis of fair market value or commercial rental value and that it appears obvious that taxing condos on the basis of the Homestead Act based on market value would be totally unfair. With higher taxes the value of the condos would be reduced substantially, below the high prices paid for them. He stated that the taxes for Christie Place condos should be closer to the taxes paid by owners of similarly sized co-ops at 50 Popham Road, with adjustments for differences between the two properties as reflected in their relative market values. He also noted that the Christie Place condo owners have to pay a mortgage for the Village garage without getting the benefit of the income to the Village on the garage.

Deb Morel, 88 Brite Avenue, speaking as the President, Scarsdale League of Women Voters, stated that at this time the League does not support adoption of the Homestead Tax Option by the Town Board. The League's position is based on the following facts:

Adoption of the Homestead Tax Option on the present circumstances would not serve the law's intended purpose of preventing a shift in the tax burden from commercial properties to residential properties since 2016 revaluation will not produce any such appreciable shift but rather would serve the sole purpose of changing the classification and thus, the method of valuation for condominiums built as condominiums which would currently affect only the 42 residential units at 1 Christie Place.

Based upon the data provided to the Town Board, the estimated effect of adopting the Homestead Tax Option would be tax increase for the 1 Christie Place residents of approximately 100% per residence over and above the almost 100% average increase those residents already incurred after the 2014 revaluation. If the Homestead Tax Option is not adopted, the Town estimates that the tax burden on the remaining approximately 5700 single family homeowners would be on average approximately \$99.00 per property, even lower than the \$150.00 average tax increase per single family home estimated in 2014, when the Town Board, in very similar circumstances made the decision not to adopt the Homestead Tax Option.

For these reasons, and as she stated on behalf of the League at the Town Board's meeting on February 9, 2016, the League is against adoption of the Homestead Tax Option in connection with the 2014 revaluation.

William Sulzer, Counsel on behalf of the Christie Place owners, since the last meeting at which he spoke on February 9, 2016, he noted that earlier today the Town of Greenburgh voted unanimously against adoption of the Homestead Tax Option. There are approximately 60 as-built condominium communities located in the Town and they decided it was not the right thing to do to those owners where the increase in tax would have been much more spread out. However, they opted not to do it. As of today, the three communities doing revaluation this year are the Town of Ossining, which has already publicly announced that they will not adopt the Homestead Tax Option, the Town of Greenburgh which has voted no and the Town of Scarsdale that still has to make this decision.

Mr. Sulzer stated that he has practiced in Westchester for over 20 years in the real estate tax world, so he comes to this with a unique perspective. He stated that Scarsdale is viewed as the premier community, having the best schools, best Village and most desirable place to be. The fact that the Village entered into this development agreement with Mr. Ginsburg to allow for a development like this which allowed Scarsdale Seniors to stay in the community and give them an affordable option is something to be applauded. It is something the Village should be commended for.

Robert Harrison, 65 Fox Meadow Road, Chairman of the Scarsdale Taxpayer Alert, stated that he appreciated the comments made by Mr. Berg. He stated that he also spoke to Howard Nadel, the current President of the Forum and the Forum's Executive Committee did approve a report that recommended that the Town Board adopt the Homestead Tax Option. He stated that he was a past member of the League of Women Voters and stated he would like them to clarify how many members were involved in the consensus regarding this matter.

Mr. Harrison stated that the Homestead Tax Option is all about fairness. He stated that he called Seymour Topping who came before the Board several months ago regarding the revaluation and Mr. Topping gave him his approval to strongly state that he feels that the Board should adopt the Homestead Tax Option. Revaluation, which the Board chose to do within 2 years of the first one to correct any inaccuracies – now here is a major inaccuracy – why should people like Seymour Topping and other seniors throughout the community have their taxes raised substantially and the condo owners at Christie Place are a special class? It is time to end this – they have had eight years of taxes that are 30-40% of what they should be. He questioned whether there was a special agreement with Christie Place.

Village Manager Pappalardo responded, stating that there was no agreement relative to taxes. The agreement was pretty simple – the Village provided that land in exchange for a public parking garage for which the Village took a permanent easement for and are running it and deriving revenue from it. There were some ancillary benefits for the Village; there was some money provided to make some traffic safety improvements around that area and a few other things. However, the basic agreement was the land for the garage.

Mr. Harrison stated that in Westchester County there are communities including the Town of Rye and the Rye Neck School District who have passed the Homestead Tax Option, as well as the Town and Village of Pelham Manor and their school districts, and the Village of Sleepy Hollow.

The Homestead Tax Option should be adopted; if there are problems with the assessments they can grieve them. Only one person has to be 55 years old to purchase a unit in Christie Place and there is no restriction on having children. The average tax increase would be \$13,490 as per the

Assessor per unit. There are so many single family properties that went up \$50-\$100,000 in the revaluation and these are Senior Citizens without children in the school system. He stated that now is the time to enact the Homestead Tax Option. It is fairness and what revaluation is all about.

William Sulzer, Counsel for Christie Place owners, stated that there are no school children residing in the Christie Place condos.

At this time, Mr. Samwick stated that he would like to close the Public Hearing. Before the Town Board moves on the proposed Local Law, he stated that he would like to invite any Board members that would like to make any comments.

Mr. Callaghan and Mr. Stern had no comment

Mr. Lee stated that “this Homestead Tax Option issue is no easier this time around than last time in 2014. There are very persuasive arguments on both sides of the issue. I certainly agree with the assertion by those urging our adoption of the Homestead Tax Option that the issue is about fairness. They make a good case that the revaluation process was undertaken to create fairness among Scarsdale residents and so that, at least at first glance, supports treating condominium homeowners the same as single family residence homeowners. But to my way of thinking that is only the beginning of the fairness inquiry. Digging somewhat deeper into the fairness, some, quite persuasively argue that fairness requires viewing condominium home ownership as more similar to cooperative home ownership than to owning a single family home. That viewpoint leads one to say that fairness calls for not adopting the Homestead Tax Option, thereby leaving the current methodology used in assessing condos in place since that is the same methodology used for assessing co-ops.

While I take the later argument seriously, it is not the one that ultimately governs my thinking on this issue because I recognize some merit to the counter argument that says co-ops should also be valued using the same methodology as is used in valuing single family homes. But since the law doesn't allow that to take place, the best we can do in creating parody is to correct the situation with condos. So, not being swayed in either direction by the previous thinking, what ultimately leads me to my conclusion which is to vote against the adoption of the Homestead Tax Option, is the same today as it was two years ago. Namely, that fairness requires us to recognize that those who moved into Christie Place prior to the 2014 reval had a reasonable expectation that their property values were correctly calculated and would not double or triple in size within a very short number of years. They were, after all, buying newly constructed homes, and as such could justifiably believe that the newly computed assessments on their property were reasonably accurate and not subject to huge swings in the near future. And as a result, they no doubt paid a price considerably higher than they would otherwise have done.

I would liken their case to the buyer of a newly constructed single family residence prior to the 2014 reval, who could be quite confident that the assessment of his or her home was going to be reasonably accurate and as a consequence, the swings in his or her taxes after the reval would be relatively modest. I distinguish these two similar situations from that of a buyer of an old home with a low assessment prior to the 2014 reval, who after the reval, was now subject to a dramatic swing higher in assessed value and taxes. That buyer either knew or with only a modest amount of discussion on the subject would have known he or she were simply enjoying the good fortune of an outdated assessment. He or she has much less to complain about when the situation is righted when a reval comes along.

I am not willing to say that the Christie Place residents should have done their homework better to discover the existence of the Homestead Tax Option as it would apply to condominiums. That's quite a bit more obscure a point than that faced by the buyer of an old home with a low assessment. Holding the Christie Place residents to that standard, you knew or should have known, the methodology used to value your home could be changed in the case of a Village wide reval, isn't fair in my judgement. No, I think that the notion that their assessments could be refigured using a different methodology was totally foreign not only to them, but to nearly all of us in Scarsdale. To me, that weighs heavily when balancing the equities.

When legislators, such as the Town Board see that a law or policy that they have adopted, and I am referring to the adoption of the revaluation plan to put all Village residents on an equal footing; when these legislators see that the adopted plan will be inequitable when applied to certain constituents it is their right and I think their obligation to make exceptions to that plan so as to avoid the injustice. I believe that an exception must be made in this case to prevent an injustice. I do not say that the equities will always be this way; I do feel that down the road – maybe that's at the next reval or the one after that, the length of time where the Christie Place residents benefit from a below market tax bill will be long enough to reimburse them for how much more they pay on purchasing their apartments and hence change the balance of the equities. But for now I see the balance tipping in their favor.”

Mr. Finger stated “I have a few comments. First of all, I think the analysis that I make starts with New York State. New York State has made a judgement for a variety of policy reasons to allot cooperatives and condominiums this particular tax treatment that they presently enjoy. So the question now is should we, because we can, opt to in essence, override New York State's policy decision not because in essence we are overriding that policy decision as a whole, but simply because we are given an opportunity to partially, if you think it is incorrect, correct it with reference to certain units where that issue exists and not others.

We would then essentially bend the second New York State law which gives us this option in order to encourage reval; has allowed us to not burden homeowners because of the change in apportionment between commercial properties and residential properties that can happen in a revaluation such as this, and bend that to basically address a different potential inequity or policy that New York State has put in place. Because the purpose of both of those laws is distinct, it becomes not only a question of how we implement them but in my estimation it is impossible to ignore the net effect. This is not a situation where the net effect is modest or even middling. If you take into account the fact of the impact of the assessment and the reval two years ago and you change it now, the owners in Christie Place taxes will increase to almost 4 times what they were. So I find it difficult to ignore that. Although, I will say that if New York State were to make a determination that proper method for taxing cooperatives and condominiums whether constructed as such or not were to tax them on market value, that would be a policy decision that obviously we would abide by and which would cover everything.

In view of all of that, however, I find that I do not believe it appropriate for us to enact the Homestead Tax Option at this point and I expect to vote the way.”

Ms. Pekarek stated “In order to consider the Homestead Tax Option I have reviewed the Board of Trustees meeting dated March 4, 2014 when that constituted Board seriously considered this option and have found their opinions and arguments sound, compelling and complete. Additionally the March 2014 meeting minutes included Public Comment and reports from the Scarsdale League of Women Voters and the Scarsdale Forum.

This Board has listened to neighbors at public meetings, via emails, and other reports from other organizations all have presented clear and well-crafted arguments. That being said, the 2014 Board articulately presented convincing data and reasoning that to my way of thinking, is not compellingly different from the current data we have received from our Assessor's office and from John Wohlman, New York State Department of Taxation & Finance.

In sum my thinking is based on these considerations...

- The Property class most affected remains condos – I consider condos and co-ops similar properties, more similar than single family homes. Co-ops are not included in this consideration which to me remains an inconsistency - similar properties should be similarly taxed and this would not be the outcome if the Option were approved.
- Scarsdale has the same number of condos in 2016 as it did in 2014 and this represents less than 1% of ownership – 42 condos versus 5,698 single family homes thus making the burden fall upon a very small number of property owners.
- These condos, built as condos, were purchased with the understanding that their taxes were based on an income value method and not fair market value method, as is used for single family homes.

When we compare the relative tax burden – with Homestead - taxes to the 42 condos would amount to an average increase of about \$13,409 and; without Homestead – taxes to the 5,698 single-family homes would amount to an average increase of about \$99.00.

Changing the method of assessing the value of these 42 condo units now, I believe, would create a disproportionate burden to these properties. Coupled with my other concerns, I will vote to not adopt the Homestead Tax Option.”

Mr. Mark stated “I analyzed the Homestead Tax Option in March 2014 when it came before the Board I sat on at that time as a Trustee. More recently, I have read the Scarsdale Forum “Report of the Assessment Revaluation Committee on the Homestead Tax Option in Connection with Scarsdale’s 2016 Townwide Revaluation,” emails from residents received over the past month or so and listened to resident comments at the Town Board meeting held on February 9, 2016 and at this meeting. My view of whether or not we should adopt the Homestead Tax Option is unchanged from 2014 by the circumstances presented to this Board. My analysis starts with the basics: what the Homestead Tax Option is intended to do, what it would do in this case, and how residents would be benefited or burdened. In my view, when the numbers are crunched, adopting the Homestead Tax Option will place an enormous dollar burden on the few condominium owners in Scarsdale with only a minimal dollar benefit for most Village residents who are single family residential homeowners. Given the level of public interest in this subject, I would like to explain once again the reasons for my decision to vote against adopting the Homestead Tax Option. I note that my view derives from the facts and circumstances as they have been presented to us.

Background

1. As a threshold matter, it is noted that a Village-wide revaluation does not raise additional taxes. It results in a re-allocation of how the aggregate tax revenues to be raised are borne by residents.

Example: Assume pre-revaluation, two homes: House A is valued at \$700,000 and House B valued at \$400,000. The amount of taxes to be raised is \$60,000.

House A pays \$40,000 in property taxes. House B pays \$20,000 in property taxes.

Post-revaluation: House A is still valued at \$700,000. House B is now valued at \$700,000.

The amount of taxes to be raised is still \$60,000.

However, House B now pays \$30,000, a \$10,000 increase and House A pays \$30,000, a counterbalancing \$10,000 decrease.

Note that the re-allocation thus accomplished was the result of up-dating the values of the two homes. It was not the result of any change in the methodology used to value the homes for property tax assessment purposes.

The Homestead Tax Option

1. Similarly, the adoption of the Homestead Tax Option does not raise additional taxes either. Whether it is adopted or not, the amount of taxes raised, or to be raised, in any given year is the amount needed to fund the budget for that year. The adoption of the Homestead Tax Option simply permits portions of the property tax burden to be re-allocated from one property class to another.
2. Those in favor of adopting the Homestead Tax Option have argued that the sense of fairness which motivated the decision to engage in the Village-wide revaluation should also prompt the Village to adopt the Homestead Tax Option. Having considered the matter, I do not believe the two scenarios are comparable and I disagree.
3. To put the matter in context it is noted that the principal purpose of the Homestead Tax Option is to allow a municipality to counter one anticipated effect of a Village-wide revaluation. Because residential properties may (depending on economic conditions) appreciate faster or in greater amount than other classes of real property (commercial properties, for example) one effect of a re-valuation may be to cause a greater proportion of the aggregate real property tax burden to be re-allocated to residential properties as a class than was allocated to that class of properties before the revaluation. Whether that sort of shift occurs at all, and whether it is significant will depend on the mix of different property classes in the municipality undergoing the revaluation. The more evenly divided property classes are between residential and other classes, the greater the potential shift and conversely, if the residential class greatly outnumbers the other property classes, the smaller the shift might be.
4. Therefore the primary purpose of adopting the Homestead Tax Option is to allow a municipality to establish a preferential tax rate post-revaluation for residential properties which would allow that class to limit its aggregate allocated portion of the property tax burden to the pre-revaluation level as against other property classes. In other words, the adoption of the Homestead Tax Option could be used to counteract a reallocation of additional tax burden from non-residential classes of properties to the residential class of

properties attributable to a Village-wide revaluation. The heading of Article 19 of the NYS Real Property and Tax Law, the Article in which the Homestead Tax Option is set forth underscores this point. The heading of that Article is: “Preservation of Class Share of Taxes Other than in Special Assessing Units.”

5. That threshold rationale for adopting the Homestead Tax Option is of little or no relevance to Scarsdale. Since residential properties presently bear approximately 94% of the Village property tax burden, a Village-wide revaluation causes an insignificant shift of tax burden effecting residential properties as a class, post re-valuation. There seemed to have been general agreement on this point among the members of the public who commented on this issue, including a comment to that effect in a Scarsdale Forum Assessment Revaluation Committee Report of January 11, 2014.
6. Data prepared by the NYS Department of Taxation and Finance in connection with the 2014 Village-wide revaluation bore this point out. The data showed that rather than experiencing an increase in allocated tax burden, the residential class experienced an aggregate decrease of less than one quarter of a percent without adoption of the Homestead Tax Option and would have experienced less than half a percent decrease if the Homestead Tax Option were adopted. There was approximately one quarter of a percentage point difference between the two scenarios – percentages which are immaterial when considering whether to adopt the Homestead Tax Option to counter the shifting of tax burden between different property classes.
7. Further, in Scarsdale’s case, if the Homestead Tax Option is adopted, the only property class that would be affected would be condominiums.
8. This would come about because if the Homestead Tax Option is adopted, the methodology for valuing condominiums would change. Under present law (and unless the Homestead Tax Option is adopted), condominiums are taxed using a rental income approach (assuming a hypothetical rental income stream and hypothetical operations and capitalization costs). Multifamily rental apartments and co-ops are taxed the same way.
9. If the Homestead Tax Option were adopted, instead of valuing condominiums as rental properties, they would be valued by using their market value, just as single-family homes are. Adopting the Homestead Tax Option would thus make a fundamental change in how condominiums are valued for purposes of assessing property tax. Multi-family rentals and co-ops would not be affected. Making such a fundamental change only in the case of condominiums is a significant distinguishing factor from how the reallocation among individual residential properties comes about as a result of the Village-wide revaluation.
10. If that significant distinction were the only factor presented, it might not be a basis for not adopting the Homestead Tax Option, in my view.
11. However, while adopting the Homestead Tax Option might have fairness as its purpose, its expected effect should be considered in order to conclude whether or not adoption would be fair. The relative benefits and burdens of adopting the Homestead Tax Option must be taken into account.
12. Based on the particular circumstances existing in the Village, I do not believe that adopting the Homestead Tax Option would produce a fair result for the following reasons.

13. There are 47 condominiums presently in the Village: 42 of which are residences in Christie Place, the other five are commercial properties in Christie Place. In contrast, there are now approximately 5,700 single family residential properties in the Village.
14. The five commercial condominium units would be unaffected by the adoption of the Homestead Tax Option. It is noted that the project at 2-4 Weaver Street is being marketed as co-ops and we are advised that the development on Weaver Street known as Heathcote Manor is being organized as a homeowners' association, so neither of these new additions to the Village housing stock would be impacted by the adoption of the Homestead Tax Option.
15. The Village Assessor has provided a preliminary draft analysis of the expected impact of the adoption of the Homestead Tax Option on the 42 condominium units at Christie Place. The analysis is based on preliminary 2016 re-valuation estimated data and does not reflect changes that might result over the next two months as the re-valuation process is concluded. The analysis was presented by the Village Assessor at a public joint meeting of this Board and the Board of Education held on February 2, 2016 and was presented again at the February 9th Board meeting.
16. The Assessor's analysis looks at the projected 2016 valuations of the 42 condominium units and corresponding projected 2017 taxes in two alternative scenarios: one in which the Homestead Tax Option is adopted and one in which it is not adopted. The analysis also excludes County taxes from the calculations made because County property tax methodology is restricted by law to using the income approach for rentals, co-ops and condominiums. School District taxes are, however, included in the analysis because if the Town adopts the Homestead Tax Option, the School District would then be faced with considering whether or not to adopt the Homestead Tax Option. If the Town does not adopt the Homestead Tax Option, the School District will not have to consider the matter. Looking at the numbers reveals the following:

With adopting the Homestead Tax Option, the Village-wide revaluation would cause:

Approximately \$563,000 of tax burden to be shifted from residential properties as a class to the 42 condominiums. That works out to an average tax bill increase of \$13,409 per condominium unit and an average decrease of \$99 per property for the approximately 5,700 residential properties in Scarsdale.

Without adopting the Homestead Tax Option, the re-allocation of the \$563,000 to the condominiums would not occur and the average of \$99 per residential property would remain on that class of properties.

17. By focusing the analysis on the dollar impact of adopting the Homestead Tax Option, the relative benefits and burdens of doing so become clearer. For the condominium class, a relatively significant dollar burden would result, with a rather minimal dollar benefit to the residential class when looked at on an average per unit/per property basis. As the figures noted are averages, there will be a range of dollar amounts above and below these averages among individual properties and units.

18. In my view making a fundamental change in the methodology used to assess condominiums that produces a significant tax dollar burden on 42 condominium units and an insignificant tax dollar benefit for approximately 5,700 residential properties is not a fair result.
19. Further, since we are not considering adopting the Homestead Tax Option for its primary purpose – to re-establish pre-revaluation property tax allocations among residential and other property classes, it would seem that adopting it solely to change the methodology for valuing condominiums has a punitive quality that also strikes me as unfair.
20. The Scarsdale Forum Committee report states that I have “argued” that the Homestead Tax Option is an option – i.e., that it is optional as to whether to adopt it or not. That is not an argument. It is a statement of fact. It is the way the law is written. Specifically, the opening line of the relevant Section of the NYS Real Property and Tax Law, Section 1903, reads: “The governing body of any approved assessing unit except a county *may* adopt the provisions of this section...” [emphasis added]. Note: “may” not “shall.”
21. There are other points to be made as to why adopting the Homestead Tax Option would be unfair and my fellow Board members have raised some of the points that they find persuasive. However, because of what I perceive as a material lack of comparability between the general impact of the Village-wide re-valuation and the very specific impact of the adoption of the Homestead Tax Option, I do not believe that fairness compels the adoption of the Homestead Tax Option. To the contrary, fairness compels me to conclude that the Town should not adopt the option and I intend to vote against doing so at this time.”

Mr. Samwick stated “I was present at the Board meetings that addressed the Homestead Tax Option two years ago, have listened carefully to resident comments and have spent quite a bit of time thinking through this issue. I have decided vote against enactment of the Homestead Tax Option. My overall thinking largely echoes the sentiments of Mayor Mark, the Board of Trustees in 2014 and the League of Women Voters, who each presented a very comprehensive and thoughtful discussion of this issue. Because the rationale for the decision has been covered in detail, I will keep my comments brief and only highlight some of my most significant reasons for my vote.

First, the Homestead Tax Option was created by the state with the intent of balancing residential and commercial property tax burdens in the event of a major disruption in the percentage of taxes paid by residential and commercial properties following a reassessment. In Scarsdale, the percentage of taxes paid by commercial and residential properties following our current reassessment is expected to be negligible. Therefore, this argument on its own does not warrant enactment of the tax option.

Second, the burden of the Homestead Tax Option would fall exclusively on 42 residents of the Christie Place complex. The tax option would change the basis for valuing condominiums built as condominiums only. Notably, co-ops and properties converted to condominium ownership would not change. When the concept of fairness is brought up the discussion of the homestead tax option, it is usually brought up in the context of comparing single-family homes with condominiums. While that is a valid comparison, it neglects co-ops and properties converted to condominium ownership. I cannot say that the methodology of valuing single-family homes relative to co-ops is any different than the methodology of valuing single-family homes relative to condominiums. Therefore, in the spirit of fairness, I cannot support treating condominiums differently than co-ops.

Third, I would like to add that the lack of consistency in the state legislation's treatment of condominiums relative to co-ops points to the fact that the intention of the state legislation was not to single out condominium units relative to co-ops or properties converted to condominium ownership. In the case of Scarsdale, if enacted, the Homestead Tax Option would not be consistent with the intent of the state legislation.

Lastly, the extreme burden placed on the 42 owners of units at Christie Place is not equitable. Issues of fairness are at the heart of this issue and the state law simply does not permit consistent treatment of all residential property types. When balancing the relative arguments and tax burdens on both sides of this issue, I find a fairly clear result against enactment of the Homestead Tax Option. Thank you.”

Mr. Samwick stated that the Board will now move to vote on the Local Law and stated that he wanted to clarify that the Local Law as it is written, if voted in favor, is a vote in favor of enactment of the Homestead Tax Option. A vote against is a vote against enacting it and keeping the status quo as it exists today.

Mr. Samwick moved that the Board vote on this Local Law; seconded by Mr. Finger. The proposed local law adopting the Provisions of Section 1903 of the Real Property Tax Law, Commonly Referred to as the “Homestead Tax Option” was **not** adopted by the vote indicated below:

AYES

None

NAYS

Mr. Callaghan
Mr. Finger
Mr. Lee
Ms. Pekarek
Mr. Samwick
Mr. Stern
Mr. Mark

ABSENT

None

* * * * *

Future Meetings

Mr. Mark announced the following future meeting schedule:

- *Tuesday, March 1, 2016* – Personnel Committee Meeting – 6:00 P.M. – Trustees’ Room
- *Tuesday, March 8, 2016* – Agenda Meeting – 7:30 P.M. – Trustees’ Room
- *Tuesday, March 8, 2016* – Village Board Meeting – 8:00 P.M. – Rutherford Hall

FY 2016/17 Budget Discussions

Finance Committee – Trustees Room

- Tuesday, March 8, 2016 – 6:30 P.M.

Public Briefing Sessions – 3rd Floor Meeting Room

- Wednesday, February 24, 2016 – 7:00 P.M. – Capital Budget

- Wednesday, March 2, 2016 – 7:00 P.M. – Capital Budget

On a motion entered by Ms. Pekarek, seconded by Mr. Finger, the Town Board meeting adjourned at 10:23 P.M.

Donna M. Conkling
Town Clerk