

Unfairness in Fairview

Inequitable Apportionment of the Fire Tax Levy

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Executive Summary

The Fairview Fire District in Dutchess County, New York, comprises part of the Town of Hyde Park and part of the Town of Poughkeepsie. This report shows that *Hyde Park property owners in Fairview paid more than their fair share of fire taxes in 2008*. The beneficiaries of this mistake have been *the Poughkeepsie property owners in Fairview, who paid less than their fair share*. Apportionment of the fire tax levy in Fairview has been inequitable in all but one of the last eight years. This inequitable apportionment has sometimes favored Hyde Park at the expense of Poughkeepsie, but this reversal only partially offsets the unfair burden Hyde Park taxpayers have carried in recent years. In my view, *this inequitable apportionment of the fire tax levy between Hyde Park and Poughkeepsie is in violation of New York State's real property tax law*. Responsibility for fair apportionment lies with the Fairview Fire District Board of Commissioners and its Treasurer. John Anspach, Fairview Fire District Board Chairman, assured me in a private meeting on August 4 that the problem of inequitable apportionment will not recur in the future. Four other fire districts in Dutchess County comprise parts of two towns, but none of them have had inequitable apportionment in the last eight years. Fairview property owners can calculate their own unfairness using the tables in Appendix B, or even more conveniently on the web at:

<http://home.roadrunner.com/~billrubin/FairviewFireTax/Unfairness.htm>.

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For most up-to-date copy of this report, see <http://home.roadrunner.com/~billrubin/FairviewFireTax>

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Background

This section reviews the meaning of *equitable apportionment of tax levy* and related terms. Readers familiar with these terms can skip to the next section, Unfair Apportionment in Fairview.

What Makes Taxes Equitable?

The Basic Principle of Equitable Taxes Fire tax in New York State is an example of what is called an *ad valorem* (according to value) tax. The basic principle underlying ad valorem tax is that *a property owner's tax is proportional to the market value of his property*. For example, if your property is worth twice as much as your neighbor's property on the open market, then you should expect to pay twice the tax as your neighbor. This simple principle is generally considered to be a fair way – that is, an *equitable* way – to divide taxes among properties². It is one of the foundations of real property tax law in New York State.

Tax Rate A convenient way to represent the proportionality of tax to market value is with a *tax rate expressed in dollars per thousand dollars of market value*. For example, suppose the tax rate is \$5.16 per \$K of market value. Then a property with a market value of \$100,000 would have a tax of \$516, a neighboring property with a market value of \$200,000 would have a tax of \$1,032, and so on. *When two neighboring properties are taxed at the same tax rate, expressed in dollars per thousand dollars of market value, the division of the tax is fair and equitable. If two neighboring properties are taxed at different tax rates, the division of the tax is neither fair nor equitable.*

Tax Levy and Tax Rate

Tax Levy A fire tax levy is the amount of money to be raised in a given year by property taxes to help pay for a fire district's annual budget. For example, the 2008 Fairview Fire District budget includes \$3,024,305 raised by tax levy, as shown later in this report.

Equitable Tax Rate The equitable tax rate corresponding to a tax levy is simply the tax levy divided by the market value of the taxing jurisdiction. Fairview's market value for 2008 tax is \$586,263,727, as shown later in this report. Dividing Fairview's tax levy by its market value (and multiplying by \$1,000 to get rate per \$K) gives an equitable tax rate of \$5.16 per \$K of market value for 2008.

² In this document, "property" means taxable property. Exempt properties pay no fire tax.

What Is Apportionment of the Fire Tax Levy?

The Fairview fire tax levy for each year is divided into two parts, one part to be collected by the Town of Hyde Park, and the other part to be collected by the Town of Poughkeepsie. The process of dividing a tax levy into separate parts for different municipal jurisdictions is called *apportionment*. Apportionment is performed by the Fairview Fire District.

What Is Equitable Apportionment?

The basic principle of equitable taxes applies not only to immediate neighbors, but also to any two properties paying fire taxes in the same fire district. Thus, the principle that fire tax is proportional to market value applies to properties in the Hyde Park and Poughkeepsie sections of Fairview. Apportionment of the fire tax levy between Hyde Park and Poughkeepsie is equitable if it results in equitable fire taxes. That is, *apportionment of the Fairview fire tax levy between Hyde Park and Poughkeepsie is equitable if the fire tax rates in Hyde Park and Poughkeepsie, expressed in dollars per thousand dollars of market value, are the same.*

How is Equitable Apportionment Calculated?

Reference [1] describes how a tax levy is supposed to be apportioned across municipal jurisdictions, according to New York State law. The example in Reference [1], “How do equalization rates relate to school property taxes?” is in terms of school tax, but this method applies equally to fire tax, according to staffers at the NYS Office of Real Property Services (ORPS). The following quote is from Reference [1]:

In order for a [school] district to fairly distribute its property tax levy (the total amount of [school] taxes to be collected), the levy needs to be divided in proportion to the total market value of each municipal segment. This allows for an equitable distribution of taxes based upon the market value of each municipality or segment.

This statement is a consequence of the basic principle of equitable taxes, that property tax is proportional to the market value of the property. The application of this principle to Fairview’s apportionment is described in detail later in this report.

How is Market Value Determined?

Government Agencies Determining Market Value We have seen that the market value of real properties plays a central role in the levying of equitable property taxes, including the equitable apportionment of fire taxes. For this reason, the government spends a great deal of effort (and money) to establish and maintain records of the market value of every parcel of real property. Because of the complexity of this task, many different government agencies are involved. In Fairview, the primary responsibility for determining the market value of properties lies with the assessor's offices of the Towns of Hyde Park and Poughkeepsie. However, the Dutchess County Real Property Tax Service Agency and the New York State Office of Real Property Services play important roles as well. The Fairview Fire District, as a separate unit of government, plays no role in determining the market values of properties.

Town Tax Is Collected Annually In addition to the complexities of determining and maintaining the market values of all properties, the Towns of Hyde Park and Poughkeepsie also collect property taxes based on the market value. Although budget expenditures are generally incurred throughout the year, the Towns, for practical reasons, collect property taxes just once per year. This year, the Town property tax was due on February 29, 2008.

Valuation Date The market values of some real properties can change significantly month to month, and even day to day. For example, on May 31, 2007, fire destroyed the administration building at the former Hudson River Psychiatric Center³, thus drastically decreasing the market value of this parcel of property from one day to the next. Since market values can change day to day, *fair and equitable taxes are based on the market values of all properties on the same day*. And since the town taxes are collected only once per year, *the government need only determine the market values of properties on one day per year*. That one day is called the *valuation date*.

Valuation Date Value In the ideal world, the *valuation date* might perhaps be the day that the property tax is due – February 29, 2008, for this year. But this is clearly impossible, since the tax bills must be prepared in advance, and government officials cannot see into the future. A more realistic alternative might be January 1, 2008, the first day of 2008 budget expenditures. Actually, for various practical reasons, the valuation date is considerably earlier than this. For the 2008 town tax, the valuation date – the date at which the market values of all properties are assessed – is July 1, 2006.

Assessment Roll In principle, the market values on which the 2008 Fairview fire taxes are based are determined as follows: Beginning on July 2, 2006, government officials begin to assess or update the market values of all properties, being sure to *establish the market value of each property as of July 1, 2006*. This job is completed on July 1, 2007. The list of all properties, together with a representation of their market

³ At the time of the fire, the property was owned by a private developer, and was therefore a taxable property.

values on July 1, 2006, is called *the 2007 assessment roll*. The 2007 assessment roll is the basis for the school taxes collected in September 2007, as well as the Town taxes due on February 29, 2008. In summary, the fire tax due on February 29, 2008 (as part of Town taxes), is based on the 2007 assessment roll completed on July 1, 2007. This assessment roll documents market values as they were on July 1, 2006.

Assessed Value and Equalization Rate

The above narrative has not mentioned the concepts of assessed value and equalization rate so familiar to taxpayers. The reason these concepts have been ignored is that *assessed value and equalization rate play no fundamental role in equitable taxation. Equitable taxation is based on market value. Assessed value and equalization rate are historical artifacts of the legacy process for collecting taxes.*

Defining Assessed Value and Equalization Rate Assessed value and equalization rate do not contribute to the understanding of equitable taxes. Indeed they have the opposite effect, and are the source of much confusion and misunderstanding about taxes. Assessed value is not the same thing as market value. For historical and political reasons, many municipalities in New York State put a dollar number on real property that is not the market value, but is some fixed percentage of market value. That dollar number is called the *assessed value*, and the fixed percentage is called the *equalization rate*. New York State law requires municipalities to assess all their properties at a fixed *level of assessment* (essentially, a locally-determined equalization rate). The New York State Office of Real Property Services may then adjust this level of assessment to arrive at the final equalization rate for the assessment roll. Town tax rates, including fire tax rates, are commonly expressed in terms of dollars per thousand dollars of *assessed value*, rather than the more straightforward dollars per thousand dollars of *market value*. But this fact does not change the requirements of New York State law for equitable apportionment in any way.

Assessed Value and Equalization Rate as a Pair In order to talk in a meaningful way about equitable taxation using assessed values and equalization rates, one needs to combine these two parameters: *The market value of a property is equal to the assessed value of that property divided by the equalization rate for the municipality containing the property. Of course, the assessed value and the equalization rate must refer to the same valuation date.* Thus, the assessed value and the equalization rate operate as a pair to represent the market value. It is in this sense that the assessment roll “represents” the market value of properties. One should avoid combining an assessed value from one valuation date with an equalization rate referring to another valuation date.

Purpose What is the advantage of this historical practice of indirectly representing property taxes in terms of assessed values and equalization rates? Most of the time, changes in the market value of a property from year to year occur because of general trends in the real estate market, rather than intrinsic changes to the property itself. In the days before massive computerization of records, when property values were written down on cards, it would have been impractical to change the property value on each card each year to track these trends. It was much easier to just change a single number for the municipality – the equalization rate. Thus, as property values rose over time, the assessed values could stay the same, while the equalization rate fell. However, in today’s world, all property records are computerized. It is just as easy to change every property value every year to account for real estate trends as it is to change the equalization rate.

Mitigation In today’s world, the assessed value and equalization rates serve only to complicate and confuse the issues, making the property taxing mechanisms more opaque than necessary. For some years, the New York State Office of Real Property Services has been encouraging municipalities to alleviate most of the problems of assessed values by adopting hundred percent equalization rates. When the equalization rate is one hundred percent, the assessed value becomes the same as the market value. Therefore, the tax rate, still expressed in dollars per thousand dollars of *assessed* value, has the same meaning as the fundamental tax rate expressed in dollars per thousand dollars of *market* value. For the 2007 assessment roll, the Town of Poughkeepsie has, for the first time, adopted this modern practice of 100 percent equalization rate. However, the Town of Hyde Park has not adopted 100 percent equalization. For the 2007 assessment roll, the Hyde Park equalization rate was 45 percent. *Because equalization rates have nothing to do with equitable apportionment, the act of changing the Hyde Park equalization rate to 100 percent in the future should have no effect on taxes.*

Latest Market Value

Section 806 of the New York State real property tax law, Reference [2], specifies that *apportionment must be performed using the latest state equalization rates*, and by implication, the latest assessments, since equalization rates and assessments form a matched pair. For the 2008 Town tax, the latest equalization rates and assessments were the 2007 assessment roll, as noted above. The same one-year offset of equalization rates and assessment roll applies to every year since 2001. In the late 1900s, the offset tended to be more than one year, because computerization of property records was not as extensive. However, around the turn of the century, the New York State Office of Real Property Services encouraged those municipalities not already using one-year offsets to do so.

Unfair Apportionment in Fairview

The following section shows how easy it is to determine that the apportionment of Fairview’s 2008 fire tax between the Town of Hyde Park and the Town of Poughkeepsie is unfair. This simple example is only an introduction to the next section, which provides a more thorough analysis, not only for 2008, but for every year since 2001. This analysis is the basis for some useful charts, presented in the final section.

Unfair Apportionment in 2008

The following simple calculation shows that the Fairview Fire District’s apportionment of the fire tax levy for 2008 is unfair:

2008 Tax Year	Hyde Park	Poughkeepsie
Tax rate per \$K of assessed value	\$13.26	\$4.83
Equalization Rate	45%	100%
Tax rate per \$K of market value	\$5.96	\$4.83
Difference (unfairness to Hyde Park)	\$1.13	

The yellow data is copied from the 2008 data in Reference [3]. Row 3, the tax rate per \$K of market value, is simply the product of the first two rows. Unlike for tax rates based on assessed values, tax rates based on market values can be meaningfully compared. The difference between the tax rates per \$K of market value, shown in row 4, is a good measure of the unfairness. If this difference had been zero (or within a few cents of zero), it would be considered fair. As it is, it indicates that, *for example, a \$200,000 market value property in Hyde Park paid \$226 more ($\$1.13 \times \200) in fire tax in 2008 than a property in Poughkeepsie having the same market value.*

Inequitable Tax Is Against the Law This difference in taxes paid on properties of the same market value in Hyde Park and Poughkeepsie violates the basic principle of equitable taxes, that a property owner’s tax is simply proportional to the market value of his property. The difference is caused by inequitable apportionment. As I see it, *this inequitable apportionment of the fire tax levy between Hyde Park and Poughkeepsie is in violation of New York State law.*

Use of Exact Rates The careful reader will note that Hyde Park’s tax rate per \$K of market value is shown as \$5.96, even though the calculation of $\$13.26 \times 0.45$ rounds to \$5.97. That’s because the above-described simple way of calculating Row 3 introduces some very small errors, on the order of one cent, due to imprecision in the displayed tax rates. Although Reference [3] shows Hyde Park’s tax rate per \$K of assessed value to be

\$13.26, this rate is only an approximation, rounded to cents for convenience in presentation. The actual rate used to prepare fire tax bills is \$13.255500, which can be calculated as the fire tax levy for Hyde Park, \$1,004,267, divided by the taxable assessed value for Hyde Park, \$75,762,285, (and multiplied by \$1000 to convert to rate per \$K). Reference [3] includes both the levy and assessed value amounts needed to make this calculation. In order to avoid even these small round-off errors, *all calculations in this report are based on the exact rates, as described in this paragraph, and are rounded to the nearest cent only for display purposes.* When Hyde Park's more precise tax rate per \$K of assessed value is used, the result is as shown in row 3.

Unfair Apportionment in Last Eight Years – The Analysis Tables

The following eight *analysis tables* provide a deeper analysis of the apportionment of Fairview's fire tax between the Town of Hyde Park and the Town of Poughkeepsie, not only for 2008, but for every tax year beginning with 2001. This section presents the analysis tables, and describes in detail how they are calculated.

In the analysis tables below, the Hyde Park column refers to the Hyde Park portion of the Fairview Fire District; the Poughkeepsie column refers to the Poughkeepsie portion of Fairview. The last column is either a total for all of Fairview, or a difference between the Hyde Park and Poughkeepsie portions, depending on the row, as explained below.

2001 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$78,404,355	\$177,187,960	\$255,592,315
Actual tax levy	\$512,232	\$1,038,015	\$1,550,247
Actual tax rate per \$K of market value	\$6.53	\$5.86	\$0.67
Percent of total market value	30.68%	69.32%	100.00%
Equitable tax levy	\$475,547	\$1,074,700	\$1,550,247
Equitable tax rate per \$K of market value	\$6.07	\$6.07	\$0.00
Excess tax levy	\$36,685	-\$36,685	\$0
Excess tax rate per \$K of market value	\$0.4678970416	-\$0.2070409627	\$0.67

2002 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$86,395,213	\$198,174,528	\$284,569,741
Actual tax levy	\$511,267	\$1,118,951	\$1,630,218
Actual tax rate per \$K of market value	\$5.92	\$5.65	\$0.27
Percent of total market value	30.36%	69.64%	100.00%
Equitable tax levy	\$494,933	\$1,135,285	\$1,630,218
Equitable tax rate per \$K of market value	\$5.73	\$5.73	\$0.00
Excess tax levy	\$16,334	-\$16,334	\$0
Excess tax rate per \$K of market value	\$0.1890583408	-\$0.0824209635	\$0.27

2003 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$104,259,118	\$239,040,817	\$343,299,935
Actual tax levy	\$564,057	\$1,223,732	\$1,787,789
Actual tax rate per \$K of market value	\$5.41	\$5.12	\$0.29
Percent of total market value	30.37%	69.63%	100.00%
Equitable tax levy	\$542,946	\$1,244,843	\$1,787,789
Equitable tax rate per \$K of market value	\$5.21	\$5.21	\$0.00
Excess tax levy	\$21,111	-\$21,111	\$0
Excess tax rate per \$K of market value	\$0.2024864978	-\$0.0883157278	\$0.29

2004 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$118,955,399	\$256,416,286	\$375,371,685
Actual tax levy	\$564,639	\$1,384,305	\$1,948,944
Actual tax rate per \$K of market value	\$4.75	\$5.40	-\$0.65
Percent of total market value	31.69%	68.31%	100.00%
Equitable tax levy	\$617,621	\$1,331,323	\$1,948,944
Equitable tax rate per \$K of market value	\$5.19	\$5.19	\$0.00
Excess tax levy	-\$52,982	\$52,982	\$0
Excess tax rate per \$K of market value	-\$0.4453932805	\$0.2066246893	-\$0.65

2005 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$125,771,631	\$279,814,467	\$405,586,098
Actual tax levy	\$619,143	\$1,470,629	\$2,089,772
Actual tax rate per \$K of market value	\$4.92	\$5.26	-\$0.33
Percent of total market value	31.01%	68.99%	100.00%
Equitable tax levy	\$648,035	\$1,441,737	\$2,089,772
Equitable tax rate per \$K of market value	\$5.15	\$5.15	\$0.00
Excess tax levy	-\$28,892	\$28,892	\$0
Excess tax rate per \$K of market value	-\$0.2297188398	\$0.1032545367	-\$0.33

2006 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$139,575,644	\$334,992,080	\$474,567,724
Actual tax levy	\$753,090	\$1,527,506	\$2,280,596
Actual tax rate per \$K of market value	\$5.40	\$4.56	\$0.84
Percent of total market value	29.41%	70.59%	100.00%
Equitable tax levy	\$670,749	\$1,609,847	\$2,280,596
Equitable tax rate per \$K of market value	\$4.81	\$4.81	\$0.00
Excess tax levy	\$82,341	-\$82,341	\$0
Excess tax rate per \$K of market value	\$0.5899407605	-\$0.2458009197	\$0.84

2007 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$160,122,321	\$376,195,018	\$536,317,339
Actual tax levy	\$744,950	\$1,756,250	\$2,501,200
Actual tax rate per \$K of market value	\$4.65	\$4.67	-\$0.02
Percent of total market value	29.86%	70.14%	100.00%
Equitable tax levy	\$746,756	\$1,754,444	\$2,501,200
Equitable tax rate per \$K of market value	\$4.66	\$4.66	\$0.00
Excess tax levy	-\$1,806	\$1,806	\$0
Excess tax rate per \$K of market value	-\$0.0112760616	\$0.0047995031	-\$0.02

2008 Tax Year	Hyde Park	Poughkeepsie	Total or Difference
Market value	\$168,360,633	\$417,903,094	\$586,263,727
Actual tax levy	\$1,004,267	\$2,020,038	\$3,024,305
Actual tax rate per \$K of market value	\$5.96	\$4.83	\$1.13
Percent of total market value	28.72%	71.28%	100.00%
Equitable tax levy	\$868,507	\$2,155,798	\$3,024,305
Equitable tax rate per \$K of market value	\$5.16	\$5.16	\$0.00
Excess tax levy	\$135,760	-\$135,760	\$0
Excess tax rate per \$K of market value	\$0.8063667655	-\$0.3248610055	\$1.13

Origin of Data

For each tax year, the market values and actual tax levies for Hyde Park and Poughkeepsie (first two columns of first two rows) are copied from Reference [3].

Calculation of Data

Fairview's market value: The last column of the first row is the sum of the Hyde Park and Poughkeepsie market values – in other words, Fairview's market value.

Fairview's tax levy: The last column of the second row is the sum of the Hyde Park and Poughkeepsie actual tax levies – in other words, Fairview's tax levy for that year.

Actual tax rate: The Hyde Park actual tax rate (first column of the third row) is calculated as the Hyde Park actual tax levy (first column of the second row) divided by the Hyde Park market value (first column of the first row) and multiplied by \$1,000 to get rate per \$K. The Poughkeepsie actual tax rate (second column of the third row) is calculated similarly. The actual tax rates are also shown in Reference [3].

Unfairness: The last column of the third row is calculated as the difference between the Hyde Park actual tax rate and the Poughkeepsie actual tax rate. As explained in the main text, this value is a good measure of the unfairness in apportionment. Positive values indicate overpayment by Hyde Park; negative values indicate overpayment by Poughkeepsie.

Percent of market value: Hyde Park's percent of Fairview's total market value (first column of fourth row) is calculated as Hyde Park's market value divided by Fairview's market value. Poughkeepsie's percent of Fairview's total market value (second column of fourth row) is calculated similarly. These two percents sum to 100 percent, as shown in the last column of the fourth row.

Equitable tax levy: Hyde Park's equitable tax levy (first column of fifth row) is calculated as Hyde Park's percent of market value multiplied by Fairview's tax levy (last column of second row). Poughkeepsie's equitable tax levy (second column of fifth row) is calculated similarly. These two levies sum to Fairview's tax levy, shown in the last column of the fifth row. This value is always the same as the last column of the second row.

Equitable tax rate: The Hyde Park equitable tax rate (first column of the sixth row) is calculated as the Hyde Park equitable tax levy (first column of the fifth row) divided by the Hyde Park market value (first column of the first row) and multiplied by \$1,000 to get rate per \$K. The Poughkeepsie actual tax rate (second column of the third row) is calculated similarly. These calculations are the same as for the actual tax rates, except that they use the equitable tax levies instead of the actual tax levies. Unlike for the actual

tax rates, the difference between the equitable tax rates, shown in the last column of the sixth row, is always zero.

Excess tax levy: The Hyde Park excess tax levy (first column of the seventh row) is calculated as the difference between the Hyde Park actual tax levy (first column of the second row) and the Hyde Park equitable tax levy (first column of the fifth row). The Poughkeepsie excess tax levy (second column of the seventh row) is calculated similarly. These two excess tax levies sum to zero, as shown in the last column of the seventh row.

Excess tax rate: The Hyde Park excess tax rate (first column of the last row) is calculated as the difference between the Hyde Park actual tax rate (first column of the third row) and the Hyde Park equitable tax rate (first column of the sixth row). The Poughkeepsie excess tax rate (second column of the last row) is calculated similarly. Negative values indicate underpayment.

Unfairness: The difference between the Hyde Park and Poughkeepsie excess tax rates (last column of last row) is the unfairness in Fairview's apportionment. This value is always the same as the unfairness calculated in the last column of the third row.

Interpretation of Data

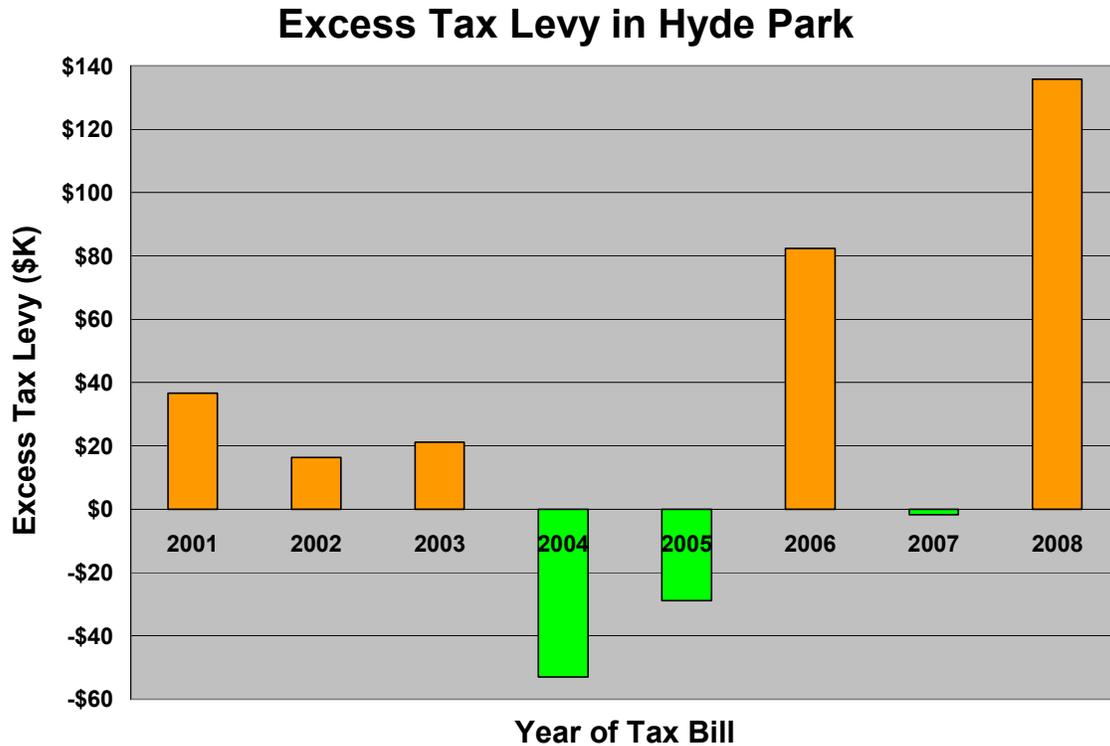
For reading convenience, the actual and equitable tax rates are displayed rounded to the nearest cent. However, for subsequent calculations, these rates are represented to 16 significant figures, to avoid round-off error.

Colors in the analysis tables:

- **Blue** fields indicate market values.
- The **yellow** field is Fairview's total tax levy.
- **Green** fields describe calculations related to equitable apportionment.
- **Orange** fields describe calculations related to the actual apportionment, and comparisons of actual to equitable apportionments.

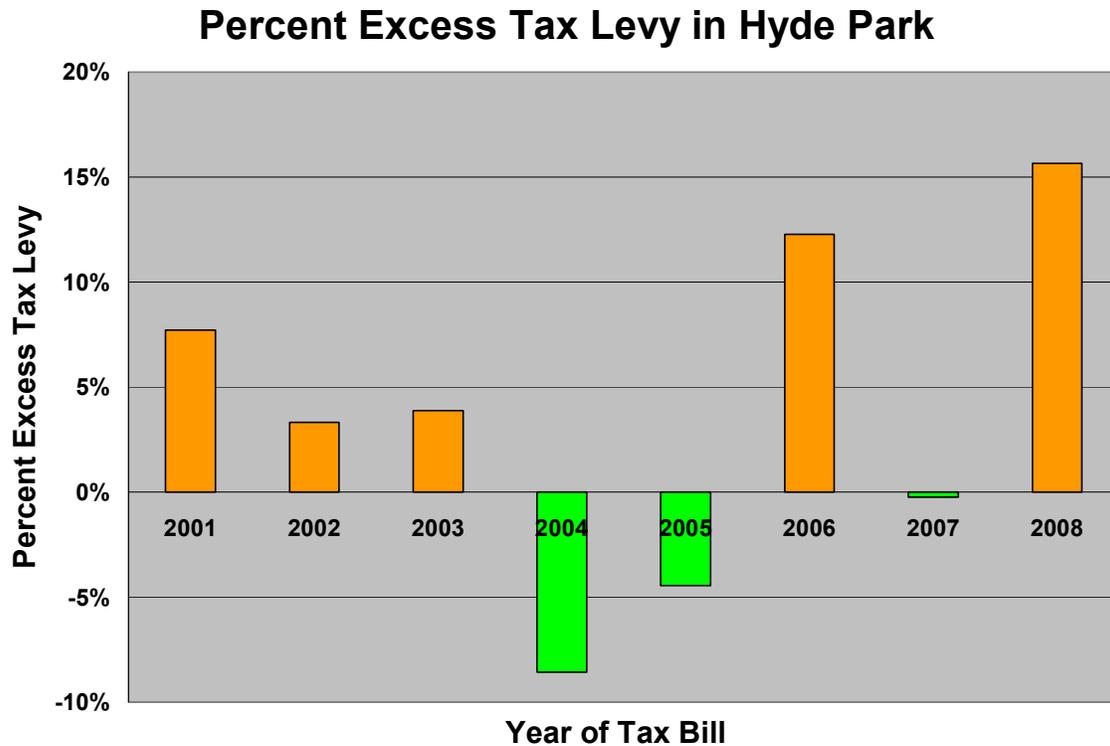
Charts Showing Fairview's Apportionment

The following chart shows the excess tax levy in Hyde Park for each of the last eight years:



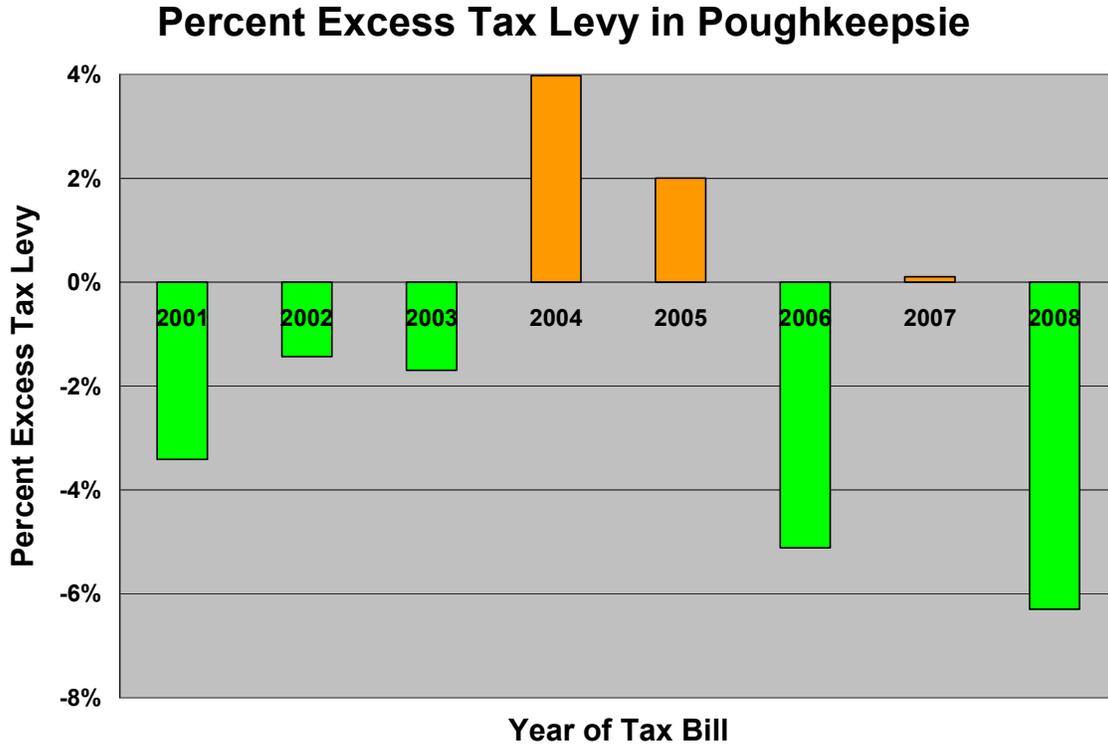
The data is from the first column of row 7 of each of the above tables. In most years, Hyde Park taxpayers paid more than they should have (orange bars). However, in 2004 and 2005, the situation was reversed: Poughkeepsie taxpayers paid more than they should have (green bars). In 2007, the situation is essentially equitable. The greatest excess tax levy by far was in 2008.

Appendix A shows that Fairview’s market value was much smaller in 2001 than in 2008. Therefore, the excess tax levy was more burdensome in 2001 than the excess tax levy chart would imply. The effect of increasing market value of Fairview can be seen more clearly in the following chart, which divides Hyde Park’s excess tax levy (first column of seventh row in above tables) by Hyde Park’s equitable tax levy (first column of fifth row):



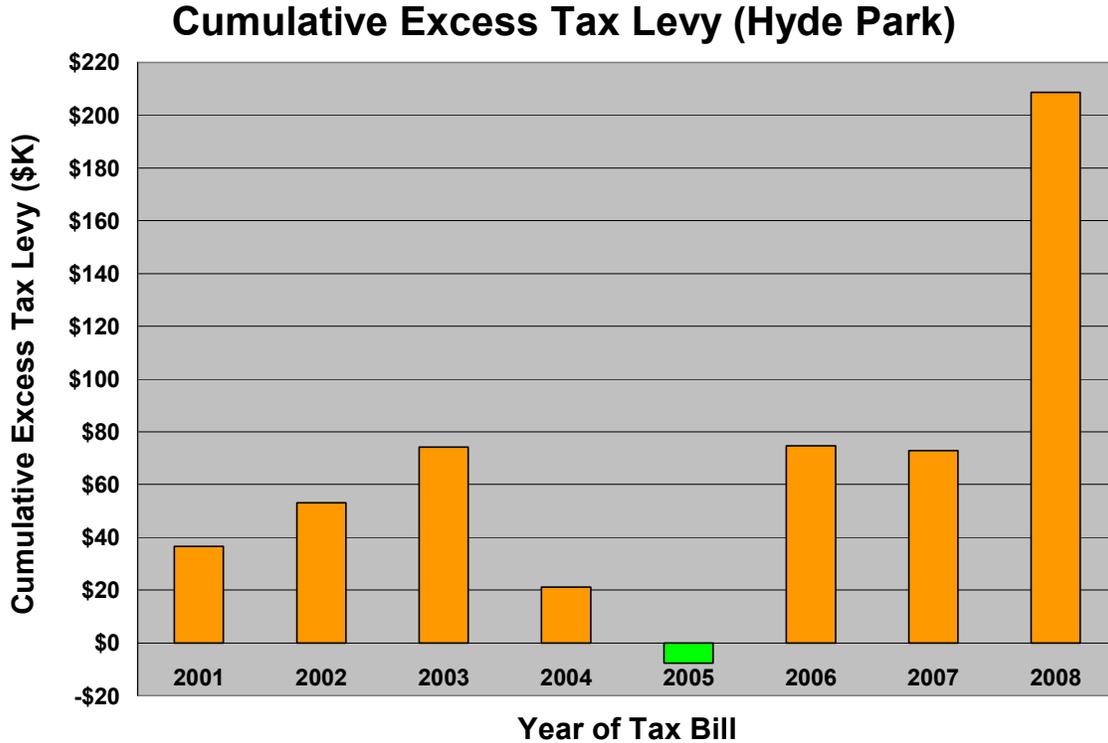
The above chart shows that Hyde Park taxpayers in Fairview paid 8 percent more than their fair share of fire tax in 2001, 3 percent more than their fair share in 2002, etc. In 2004, Hyde Park taxpayers paid 9 percent less than their fair share. In 2006 and 2008, Hyde Park taxpayers paid 12 and 16 percent more than their fair share of fire taxes, respectively.

The beneficiaries of these mistakes have been the Poughkeepsie taxpayers in Fairview, who generally paid less than their fair share, as shown in the following chart:



The above chart is constructed by dividing Poughkeepsie’s excess tax levy (second column of seventh row in above tables) by Poughkeepsie’s equitable tax levy (second column of fifth row). *The reason Poughkeepsie’s unfairness is generally less than Hyde Park’s is that Poughkeepsie’s share of Fairview is about 2.3 times greater than Hyde Park’s share. Thus, inequities are amplified on the Hyde Park side by this amount.*

Observant readers will notice that the excess tax paid by Poughkeepsie taxpayers in 2004 and 2005 approximately cancels out the excess tax paid by Hyde Park taxpayers in previous years. This fact can be seen more clearly in the following chart, which accumulates Hyde Park's excess tax levy since 2001:



Thus, the cumulative excess levy for 2001 is the same as the 2001 excess levy in the previous chart, the cumulative excess levy for 2002 is the sum of the excess levies for 2001 and 2002, the cumulative excess levy for 2003 is the sum of the excess levies for 2001, 2002, and 2003, etc. By 2005, the cumulative excess levy is just slightly negative – \$7,744 to be exact. This means that *between 2001 and 2005, Poughkeepsie taxpayers in Fairview paid a total of \$7,744 excess fire tax. The beneficiaries of this mistake have been the Hyde Park taxpayers in Fairview, who paid \$7,744 less fire tax in those years than they should have.* Of course, \$7,744 spread over all the taxpayers is a rather insignificant amount.

The unfairness in the last three years is more significant.

2008 Is the Most Unfair Year

The above charts show that every year since 2001 (except for 2007) has had unfair apportionment, resulting in unfair fire taxes. However, 2008 stands out as the most unfair year, by at least two measures:

- In 2008, Hyde Park taxpayers paid \$135,760 that should have been paid by Poughkeepsie taxpayers – more than in any previous year, as shown by the chart on page 14.
- In 2008, Hyde Park taxpayers paid 16 percent more fire tax than they should have – more than in any previous year, as shown by the chart on page 15. Poughkeepsie taxpayers paid 6 percent less fire tax in 2008 than they should have -- a greater unfairness than in any previous year.

The year 2008 also stands out for having the greatest increase in fire tax levy from the previous year, measured either in dollars – \$523,105 – or in percent – 21 percent. (See the analysis tables and the second chart in Appendix A.) The percent increase is more than double the increase of any previous year.

Responsibility for Apportionment

To understand the responsibility for proper apportionment in the Fairview Fire District, it is necessary to understand how a fire district is governed in New York State.

What is a fire district?

A fire district is a local municipal jurisdiction that provides fire and emergency service protection to the properties that comprise it. In New York State, fire districts live in a parallel universe disjoint from all other local jurisdictions. Fire districts have their own geographic boundaries, which are sometimes different from town boundaries, as in the case of Fairview. *Fire districts have their own governance, by a board of five fire commissioners, elected by voters of the district.* The fire commissioners are ultimately responsible to the voters of the district, just as are any other elected government officials.

Commissioners and Treasurer Are Responsible

According to my understanding of New York State law, *responsibility for proper apportionment of fire taxes across taxing jurisdictions rests with the Board of Fire Commissioners and the Treasurer of the fire district.* The treasurer is the fiscal officer of the fire district. In the Fairview Fire District, the treasurer, James F. Passikoff, C.P.A., is appointed by the Board. When a fire district treasurer is appointed, as in Fairview, he holds office until December 31 of the year of appointment.

Dutchess County and Towns of Hyde Park and Poughkeepsie

Although Dutchess County formally *levies* property taxes, and it empowers the Towns of Hyde Park and Poughkeepsie to *collect* property taxes, *none of these governments have any statutory roles in specifying or validating the apportionment of the Fairview fire tax levy between Hyde Park and Poughkeepsie,* according to my understanding of New York State law. The Fairview Fire Commissioners have this responsibility, which they delegate to the Treasurer.

Election of Fire Commissioners

The election of Fairview Fire Commissioners takes place on the second Tuesday of December of each year at the Fairview Fire House – not during the general election in November. Commissioners serve for a term of five years, staggered so that one commissioner is up for election each year. The commissioners page of the Fairview Fire District website, Reference [4], lists the names and terms of office of the commissioners, the time and place of the monthly public Board meetings, and the minutes of recent Board meetings.

Who Else Found the Unfair Apportionment?

I am by no means the only observer to discover the unfairness of Fairview's fire tax apportionment. Mr. Mark Meyerson, firefighter in the Fairview Fire Department, found that properties in Hyde Park paid greater fire tax in 2008 than properties in Poughkeepsie with the same market value. Ms. Virginia Buechele, coordinator of the Fairness for Fairview advocacy organization, made the same discovery. Officials in the Dutchess County Real Property Tax Service Agency have been aware of the inequity in Fairview's fire tax rates between Hyde Park and Poughkeepsie. There is also reason to believe that officials in the Town of Poughkeepsie Assessor's office were aware of Fairview's apportionment irregularities. As noted on page 19, these government agencies have no jurisdiction regarding Fairview's apportionment.

Acknowledgements

This report would not have been possible without the assistance of many people. I'm especially grateful to Mr. Tory Gallante, Fairview Fire Chief, for graciously facilitating my access to key resources of the Department. Many thanks are due Mr. James Passikoff, Fairview Fire District Treasurer, for patiently answering my many questions. Special thanks are due Mr. John Anspach, Chairman of the Board of Fairview Fire Commissioners, for an open and helpful discussion of apportionment issues with me and my wife, Ms. Beverly Allyn. I've relied heavily on Beverly's insights, observations, and big-picture perspective. Beverly also created the slogan which is the title of this report. I received invaluable advice and assistance from staff at the New York State Office of Real Property Services, and from the Office of Counsel, New York State Comptroller. These devoted public servants are owed a real debt of gratitude for the years of expertise they drew upon to help me understand real property tax law.

References

- [1] Pamphlet *Understanding the Equalization Rate – A Guide For Property Owners*, published by the New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, NY 12210-2714, March 2008. Also available as web page http://www.orps.state.ny.us/pamphlet/under_eqrates.htm

- [2] Section 806 of the real property tax law of New York. Available at <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>. Select RPT, then select Title 1 of Article 8, then select 806.

- [3] Pamphlet *2008 County, Town, School & Village Tax Rates*, and similar pamphlets for previous years, published by the Dutchess County Real Property Tax Service Agency (RPTSA), 22 Market St., Poughkeepsie, NY 12601 . All these pamphlets are available at <http://www.co.dutchess.ny.us/CountyGov/Departments/RealPropertyTax/12485.htm>

- [4] Fairview Fire District website <http://fairviewfd.net/>. The commissioners page contains governance information for the District.

Appendix A – Fairview’s Tax Rate Is Roughly Constant

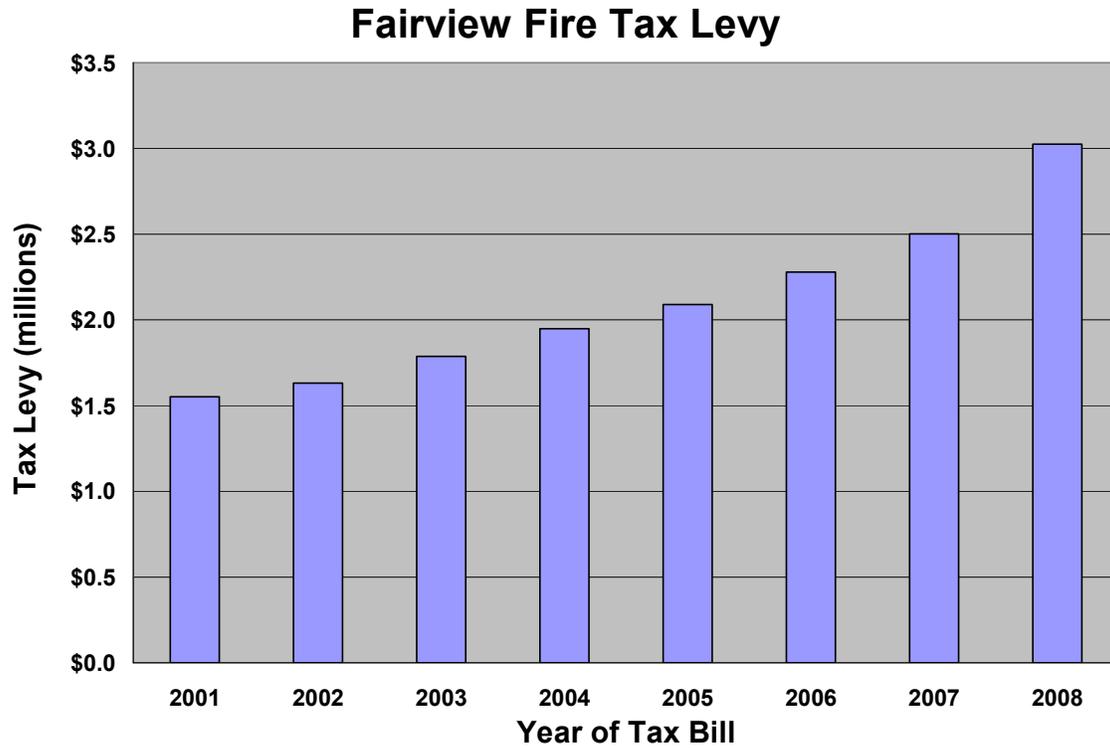
Most Fairview taxpayers have found that their fire taxes – measured in dollars – have increased dramatically in recent years. Examination of the Fairview Fire District’s tax levy show that it has increased dramatically in recent years as well. *A plausible assumption, therefore, is that Fairview’s fire tax rate⁴ has increased dramatically in recent years. This assumption is false.*

Not only has the Fairview fire tax rate *not* increased dramatically, but it hasn’t increased at all, except for a small increase in 2008. *Fairview’s fire tax rate has actually decreased slightly every year from 2002 to 2007.* A reasonable way to describe Fairview’s fire tax rate is that *it has been roughly constant since 2001.* This apparent paradox is explained by the fact that *the Fairview Fire District’s market value has increased dramatically since 2001.*

This appendix provides a detailed justification of the above statements.

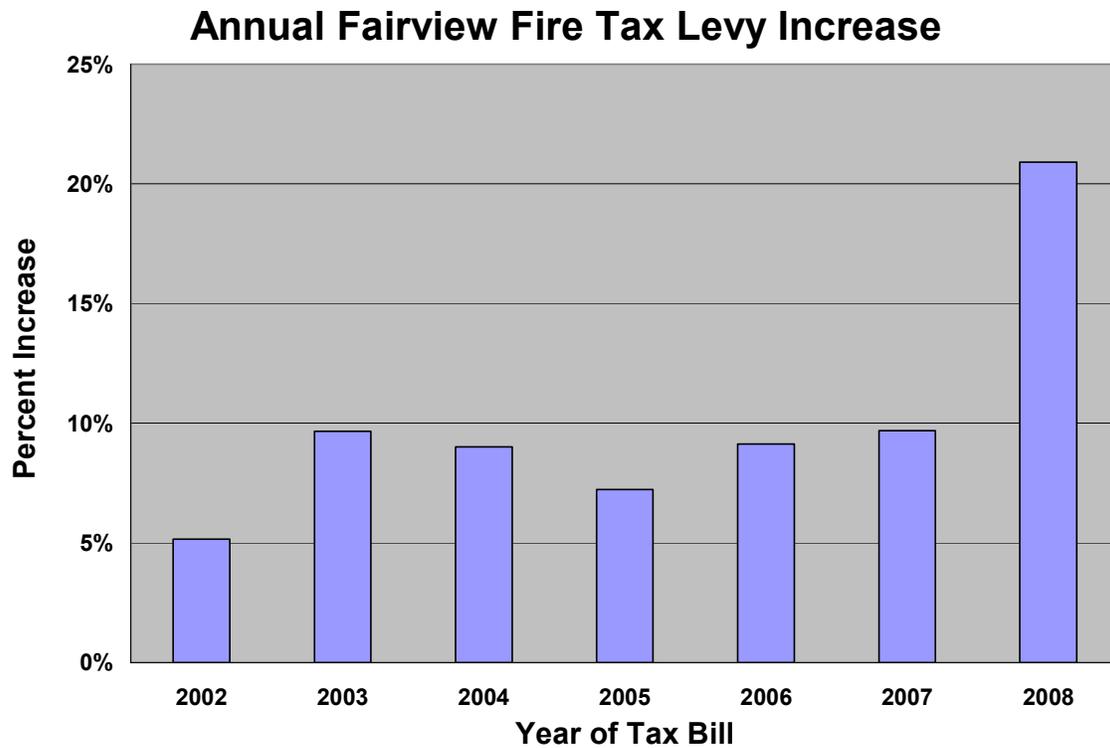
⁴ In this report, tax rates are generally measured in dollars per thousand dollars of market value. This report has shown that Fairview has had a different fire tax rate for Hyde Park than for Poughkeepsie – the essence of unfairness. This appendix discusses the single fire tax rate that *would* have applied to all of Fairview if the apportionment had been figured fairly. In other words, *this appendix discusses Fairview’s equitable fire tax rate.*

The following chart shows that Fairview’s fire tax levy has steadily increased since 2001, almost doubling in the last 8 years:



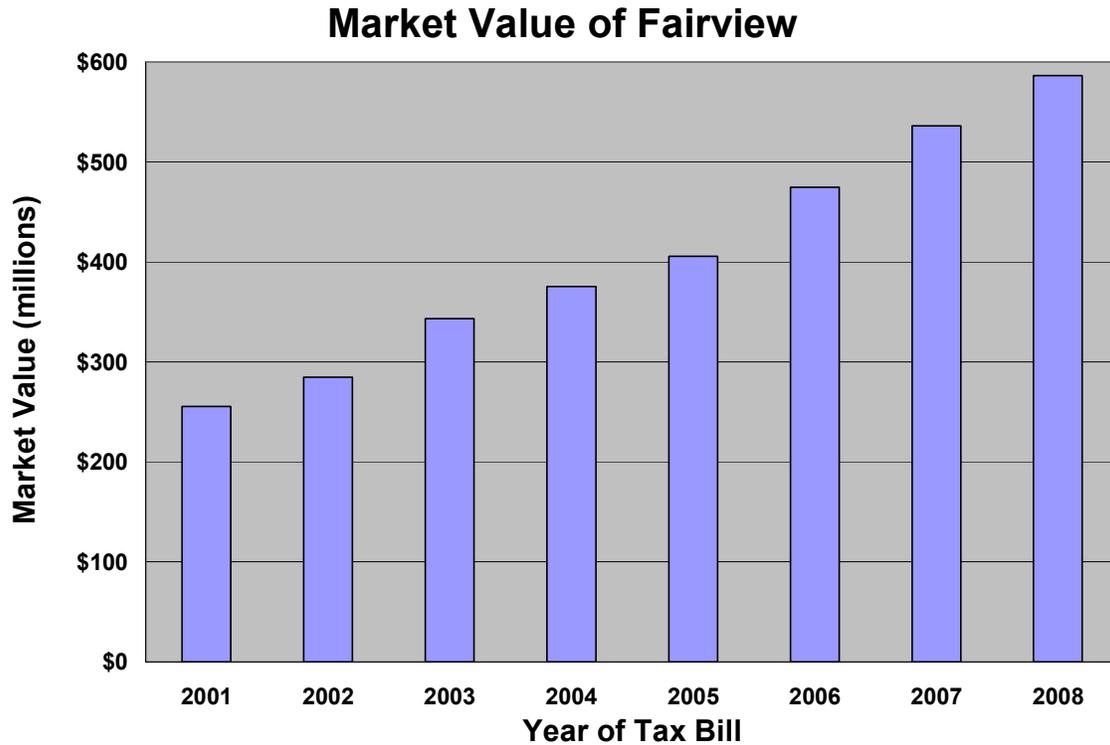
The data for the above chart are from the last column of the second row of each of the analysis tables in the main body of this report.

The change in Fairview’s fire tax levy over the years can be seen more clearly in the following chart:



The data for the above chart are simply the percent increases from the previous chart. This chart shows that the annual increase in Fairview’s fire tax levy has averaged around 10 percent, though 2008’s increase of 21 percent is anomalous, and 2002’s increase is only around 5 percent.

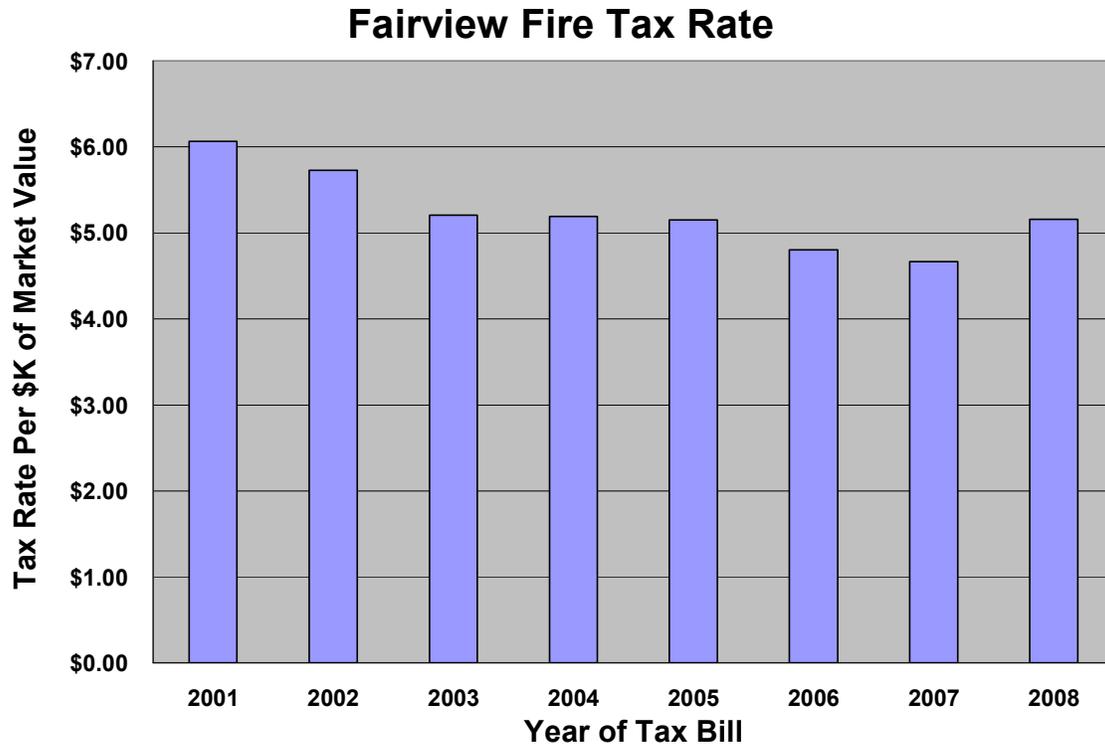
If Fairview's market value had been roughly constant for the last 8 years, then we could expect Fairview's tax rate to increase with Fairview's fire tax levy. But in fact Fairview's market value has not been close to constant in the last 8 years, as shown by the following chart:



The data for the above chart are from the last column of the first row of each of the analysis tables in the main body of this report. The above chart shows that *Fairview's market value has more than doubled since 2001.*

This data includes only *taxable* market value, as noted previously. The Fairview Fire District also contains substantial amounts of *tax exempt* property not relevant to the present discussion. The exact amount is the subject of my previous report, *Tax Exempt Properties in Fairview*, available on my website at <http://home.roadrunner.com/~billrubin/FairviewFireTax>.

The equitable fire tax rate is simply the tax levy (first chart of this Appendix) divided by the market value (above chart), and multiplied by \$1,000. The result is:



Thus, *Fairview's fire tax rate has decreased slightly every year since 2001, except for a small increase in 2008. This is a result of the fact that Fairview's market value has increased slightly faster than Fairview's tax levy. Another way to interpret this chart is to say that Fairview's fire tax rate has been approximately constant at about \$5.25 per thousand of market value for the past eight years. Fairview's fire tax rate has differed from this average by at most \$0.82 in 2001, and -\$0.58 in 2007.*

Appendix B – Calculate Your Own Unfairness

Property owners in the Fairview Fire District can use the worksheets on the following pages to calculate the amount of fire tax overpayment or underpayment they made in each of the last five years. If your property is in Hyde Park, use the Hyde Park worksheet to compute your overpayment. If your property is in Poughkeepsie, use the Poughkeepsie worksheet to compute your underpayment. Alternatively, you can use the form on my website to make the calculations automatically. Just go to <http://home.roadrunner.com/~billrubin/FairviewFireTax> and select **Document #6** “Calculate Your Own Unfairness”.

Full Market Value

To complete the unfairness worksheet, all you need is the *full market value* of your property for each year of interest. This information appears on your county/town tax bills. On each bill, there should be a line right below your name and mailing address with a sentence like this:

The assessor estimates the **Full Market Value** of this property **as of July 1, 2006 was:** xxx,xxx

where “xxx,xxx” is the *full market value*. This example is for the 2008 county/town tax bill. (The “July 1, 2006” date corresponds to the 2007 assessment roll, upon which the 2007 school tax and the 2008 county/town tax are based.) In other words, *the “July 1, 2006” date corresponds to the 2008 county/town tax bill, and so on.*

Origin of Data

The overpayment rates in column 2 of the following tables are copied from the last line of the analysis tables in the main body of this report.

Interpretation of Data

The reason the Hyde Park overpayment rates are more than double the Poughkeepsie underpayment rates is that the total market value of the Poughkeepsie portion of Fairview is more than double that of the Hyde Park portion. The exact ratio varies somewhat from year to year.

The total overpayment/underpayment values do not take into account the time value of money (interest charges or gains).

Hyde Park Unfairness Worksheet

Hyde Park property owners in the Fairview Fire District can use the table below to calculate the amount of fire tax overpayment or underpayment they made in each of the years indicated.

1. Enter the *full market value* of your property in column 3 for each tax year. Your *full market value* can be obtained from your tax bills, as explained on the previous page. If you don't have all your tax bills, you can leave out some years. Alternatively, you can interpolate your *full market value* for missing years from nearby years.
2. For each year, multiply the overpayment rate (column 2) by the full market value (column 3), and divide by \$1,000, entering the resulting overpayment amount in column 4. Note that some years have underpayments, indicated by a negative overpayment rate.
3. Total up the overpayments in the last column, *being sure to subtract the amounts with negative signs*. The result is your total overpayment in the last eight years.

Hyde Park Fire Tax Overpayment

Year of Tax Bill	Overpayment Rate per \$K of Market Value	Full Market Value on Tax Bill	Over-payment Amount
2001	\$0.4678970416		
2002	\$0.1890583408		
2003	\$0.2024864978		
2004	-\$0.4453932805		-
2005	-\$0.2297188398		-
2006	\$0.5899407605		
2007	-\$0.0112760616		-
2008	\$0.8063667655		
Total Overpayment:			

Poughkeepsie Unfairness Worksheet

Poughkeepsie property owners in the Fairview Fire District can use the table below to calculate the amount of fire tax overpayment or underpayment they made in each of the years indicated.

1. Enter the *full market value* of your property in column 3 for each tax year. Your *full market value* can be obtained from your tax bills, as explained on the previous page. If you don't have all your tax bills, you can leave out some years. Alternatively, you can interpolate your *full market value* for missing years from nearby years.
2. For each year, multiply the underpayment rate (column 2) by the full market value (column 3), and divide by \$1,000, entering the resulting underpayment amount in column 4. Note that some years have overpayments, indicated by a negative underpayment rate.
3. Total up the underpayments in the last column, *being sure to subtract the amounts with negative signs*. The result is your total underpayment in the last eight years.

Poughkeepsie Fire Tax Underpayment

Year of Tax Bill	Underpayment Rate per \$K of Market Value	Full Market Value on Tax Bill	Under-payment Amount
2001	\$0.2070409627		
2002	\$0.0824209635		
2003	\$0.0883157278		
2004	-\$0.2066246893		-
2005	-\$0.1032545367		-
2006	\$0.2458009197		
2007	-\$0.0047995031		-
2008	\$0.3248610055		
Total Underpayment:			