LOCAL FISCAL STRESS
State Austerity Policy & Creative Local Response

LINKING FISCAL STRESS & SOCIAL EQUITY: A MUNICIPAL TOOLBOX

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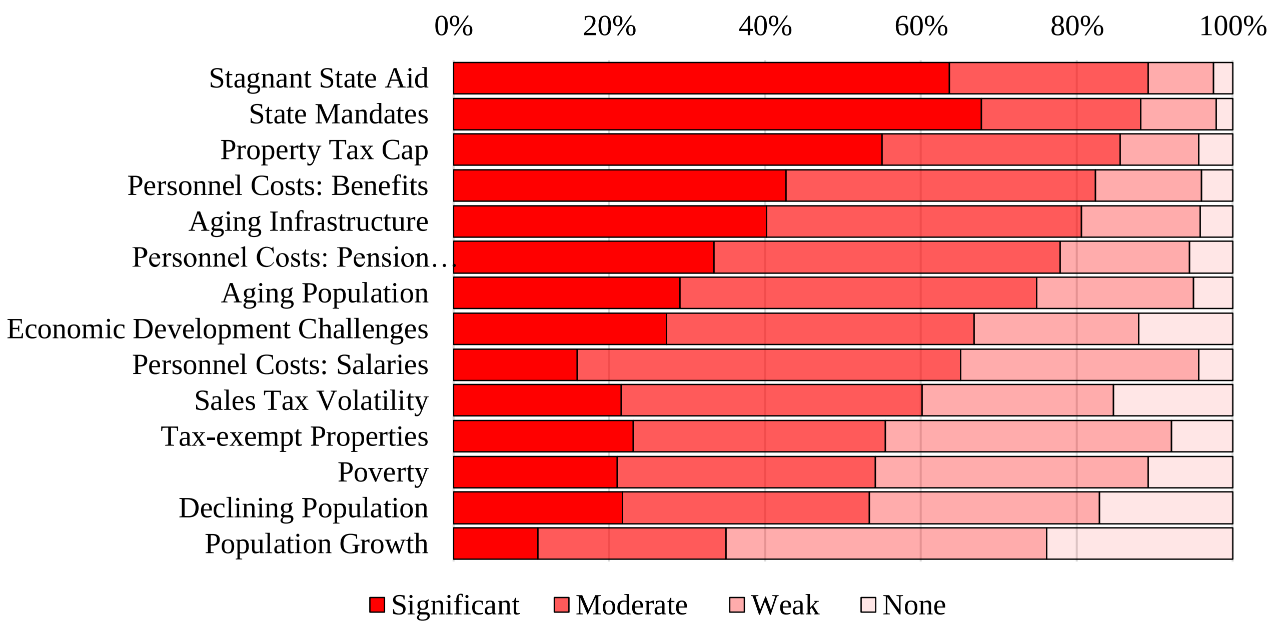
Introduction

Local governments in New York State (NYS) are between a rock and a hard place. The rock, economic restructuring and shifting demographics, and the hard place, state policy, are motivating local governments across the state into action. The revenue streams local governments have traditionally used, such as the property tax, are being limited by the tax cap, blight, and tax-exempt properties while service expectations are increasing. This is not sustainable in terms of both municipal fiscal health and social equity. Local governments need additional financial support from the state government, and tools to weaken the constraining factors at the local level.

Based on research across the US and in NYS, this report outlines four tools that are within the power of local government officials to use to mitigate fiscal stress while keeping social and equity in mind. Making this linkage between managing fiscal stress and equity is critical for local governments to plan for a sustainable future for all their residents. If the tools in the local government toolbox are simply focused on addressing budgetary stress, some residents, particularly ones in the most need, may be left behind due to pragmatic cuts in services. This report, and accompanying issue brief that may be assessed at http://cms.mildredwarner.org/p/280, draws its motivation from a recent survey of local governments in NYS, conducted by Cornell University in 2017, which identified the following sources of local fiscal stress.

Figure 1. Sources of Fiscal Stress



Data source: Cornell University, Local Government Fiscal Stress in NYS Survey, 2017. Number of Municipalities & Counties =874.

As shown above, many of the sources of stress fall outside of local government agency, capacity, and control. Our research identifies four stress sources that fall within the capacity of local governments to respond: the property tax cap, declining population, tax-exempt properties, and economic development challenges. With these, we searched for possible pragmatic, innovative, and transferable, yet equitable, local responses. The mission of this research is to provide local government leaders in NYS with a toolbox of transferable and equitable local responses and link them to these stress sources. The elements of the toolbox are the following:

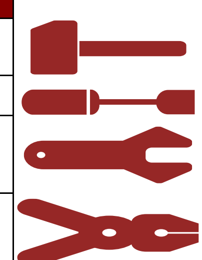
1. For the stress source of the property tax cap, we analyzed the local decision to override or not override, asking the three basic questions of who, where and why?
2. In response to declining populations, we investigated land banks in NYS, their applications to blighted and vacant properties, and show how partnerships between land banks and community land trusts can foster equity.
3. We outline the best approaches, conditions, and structure of payments in lieu of taxes (PILOTs) to leverage tax-exempt properties and achieve goal congruence for community stakeholders and local government leaders.
4. Another partnership tool is community benefits agreements (CBAs), which can be used to gain concessions from developers to directly benefit residents who are inequitably affected by new developments.

We employ a mixed methods research approach for the creation of the toolbox. We held interviews with key informants, attended the *Community Renewal and its Discontents Conference* held at Albany Law School in 2017, and conducted document reviews of relevant state, federal, and local policies. Additionally, drawing on data from Cornell's 2017 NYS local government survey, we perform a descriptive data analysis.

Table 1. The Toolbox: Linking Stress Sources to Tools

Source of Fiscal Stress	% Moderate or Significant Stress Source*	Tool
Property Tax Cap	86%	Overriding Tax Cap
Declining Population	53%	Land Banks & Land Trusts
Tax-exempt Property	55%	Payments in Lieu of Taxes (PILOTs)
Economic Development Challenges	67%	Community Benefits Agreements (CBAs)

*Data Source: Cornell University, Local Government Fiscal Stress in NYS Survey, 2017. Number of municipalities and counties =874.



The four tools outlined above should be **used with caution**. While these can be used by local governments in NYS, each is a two-way street with positive yet possible negative aspects and should be adapted in accordance to a variety of community contexts.

Overriding the Property Tax Cap: Who? Where? Why?

Property taxes are a vital and stable revenue stream for local governments in NYS and across the US. According to Census data, property tax as a percentage of total general revenue for localities has increased since 2002. Property tax revenue is becoming more important given the continued decrease in state aid for localities following the Great Recession (Kim, 2017). Taxpayers in all 50 states, and Washington D.C., pay property taxes, but the rates are levied at the local level by general-purpose governments, school districts, and special purpose governments. Thus, the levels of property taxation vary significantly by state, region, and even locality (Gordon *et al.*, 2016; Tax Foundation, 2013).

Over the past 30 years, many states have passed Tax and Expenditure Limits (TELs) to constrain local government growth in both revenue and expenditures (Kioko, 2011; Mullins, 2004). The best-known TEL is California's Proposition 13, which was passed via a popular referendum in 1978. This was a state constitutional amendment that reduced local property taxes to less than one percent of the full cash value of said property. Scholarship on TELs has shown that they are largely ineffective in controlling expenditures and/or revenues at the state-level (Kousser *et al*., 2008). At the local level, TELs have resulted in the unexpected outcomes of a greater reliance on user fees and charges (Shadbegian, 2003; Jimenez, 2017), and TELs have been shown to decrease municipal credit ratings. (Maher *et al.,* 2016). Regarding social equity, less affluent jurisdictions are more dependent on property tax revenue (Mullins, 2004), which may exacerbate TEL's disproportionately negative effects (Amiel *et al.,* 2012; Jimenez, 2014). These unintended consequences increase local fiscal stress and social inequity, not alleviate it. Hence, overriding the property tax cap in NYS links mitigating fiscal stress with social equity.

The Property Tax Cap in NYS

The TEL in NYS is the property tax cap and limits the property tax levy for localities to the rate of inflation or two percent, whichever is lower. With low inflation, the allowable levy growth factor in both 2016 and 2017 was below one percent, and hit its lowest point at 2017 when it was just 0.68 percent (OSC 2018). This results in no *real* fiscal growth and budgetary flexibility at the local level without additional development or growth in local tax bases.

The cap, passed in 2011 and implemented in 2012, was championed by Governor Cuomo. When garnering support for the cap, he noted that, "your tax dollars don't just go to the state. They also go to your local governments, and local property taxes are simply out of control. "In that same message, he noted [NYS] "has too many local governments…[which] are wasteful and very, very expensive" (Cuomo, 2011). According to the Tax Foundation (2013), it is a fact that New Yorkers pay a high rate of property taxes when compared to other states. However, it has not been shown that this high rate of property taxation is due to local government fragmentation and/or inefficiency.

The cap applies to all school districts outside the Big Five Cities (New York City, Buffalo, Rochester, Syracuse, and Yonkers), all local governments (counties, cities, towns, villages, and special districts), and New York City (NYC) was exempted from the cap and was granted an extension of rent control. John DeFrancisco, a Republican legislator from Syracuse, advocated for the tax cap but did not want rent control. However, in the end political deals were cut. When asked about the possible deal he said, "To tie it into something totally unrelated –rent control – is not a good idea… [but] if this is necessary to get a result, I would vote for it" (Weaver 2011). Hence, NYC legislators voted on a proposal that did not apply to them for benefits only they receive.

There are limited exemptions to the tax cap, which sets it apart from TELs in other states (Chang and Wen, 2014). Exemptions include torts (NYS Dept. of Taxation and Finance, 2011), but the cap does not exempt local capital expenditures, special districts, or emergency/natural disaster expenditures. It also does not include developments on tax-exempt land or payments in lieu of taxes. When comparing common practices in other states and the desired reforms to the cap collected on the 2017 survey, it clearly shows the desired reforms to the property tax cap are common in other state TELs (Aldag and Warner 2018).

How to Override the Property Tax Cap

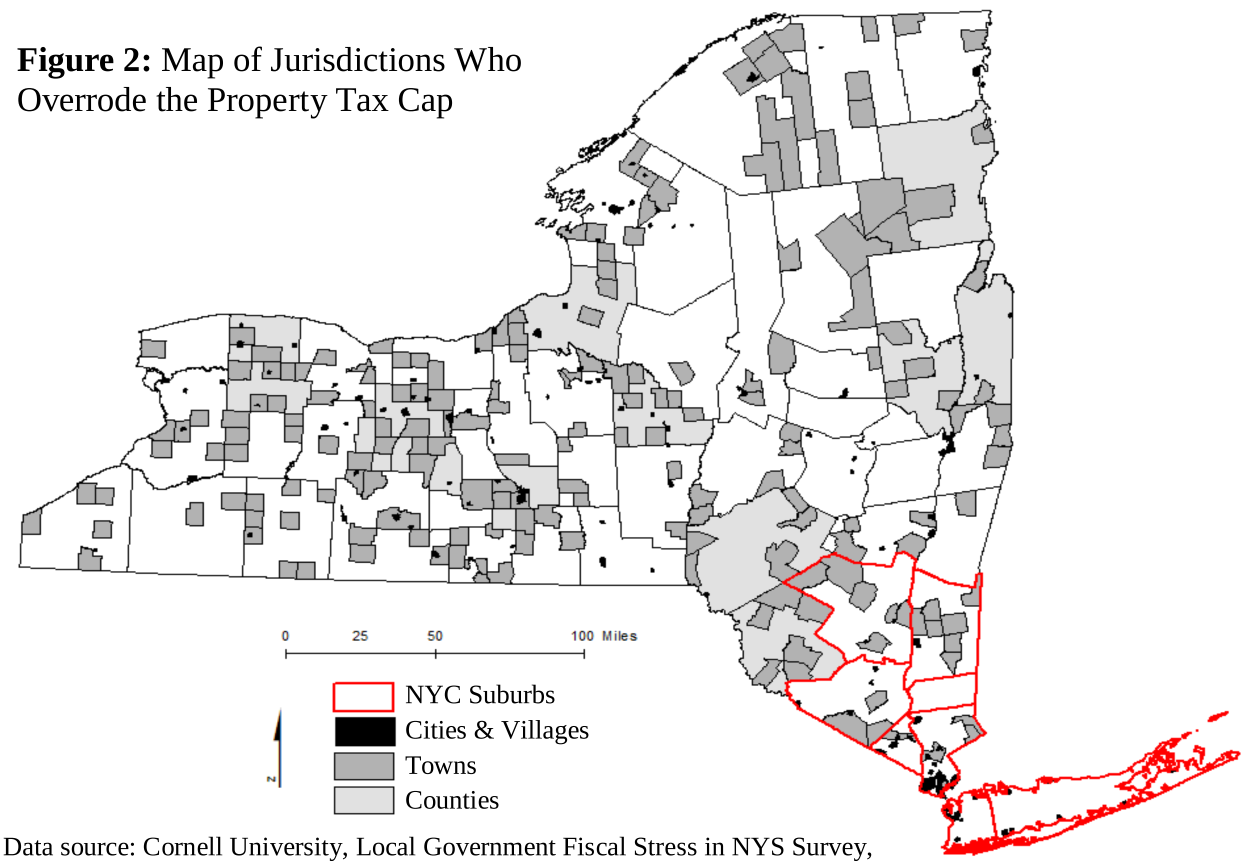
Local governments are permitted to override the property tax cap with a 60 percent super majority vote of the governing body. The State, however, has several mechanisms to discourage overrides. If localities decide not to override the tax cap, the citizens in their jurisdiction would receive a rebate check in the mail directly from the state. Local government experts have called these rebates "happy meal checks" because of their low, almost trivial, monetary value. These rebates were inequitably distributed throughout the state; downstate suburbs received more than residents in Upstate jurisdictions (Public Policy & Education Fund, 2014). For instance, rebate checks for Lewis County residents were an average of $42, whereas downstate suburban residents received checks over three times that amount, an average of $424 (Public Policy & Education Fund, 2014).

According to a recent Cornell University survey, over 86 percent of local government respondents indicated the Property Tax Cap was either a “moderate” or “significant” driver of their level of local fiscal stress (Aldag, Warner, and Kim, 2017). Given the fact that the cap is a significant contributor to fiscal stress, we examine who, where, and why local governments in NYS overrode or did not override the property tax cap.

Who & Where?

The 2017 NYS local government survey asked officials, “In the last three years, has your jurisdiction overridden the Tax Cap?” 38 percent of local governments indicated that they overrode the cap. Counties (43 percent) and cities (43 percent) were most likely to override, and they were also the two types of local government most likely to report higher local fiscal stress according to the survey. 39 percent of towns and 34 percent of villages indicated they overrode the cap. The rate of tax cap overrides in NYS is significantly lower than older, more stringent property tax caps in other states.

Figure 2: Map of Jurisdictions Who Overrode the Property Tax Cap



Data source: Cornell University, Local Government Fiscal Stress in NYS Survey, 2017. Number of municipalities and counties =330.

For instance, 88 percent of municipalities and 94 percent of counties overrode the Tax Payer Bill of Rights in Colorado (Lyons and Lav, 2007), and 82 percent of localities overrode the TEL, Proposition 2 ½, in Massachusetts (Roscoe, 2014). In contrast, the cap in NYS is more nuanced, just 5-years post implementation, and it is possible that local overrides will increase over time. This may be a result of the growing effects of the cap overtime. Empirical research on the local effects of the tax cap show the cumulative impacts of the tax cap overtime, and indicate villages and towns are most effected (Xu and Warner, 2015). Nevertheless, villages and towns were lease likely to override the tax cap.

As shown in Figure 2, regional differences become apparent when mapping tax cap overrides. Upstate jurisdictions overrode more than downstate suburban jurisdictions. Localities within the suburban fringe surrounding New York City (outlined in red) tend to override less. Recall that the cap does not apply to NYC. Per 2015 data drawn from the Office of the NYS Comptroller, the NYC suburban region has higher property tax revenues per capita than Upstate municipalities ($1,998 in suburban jurisdictions and $388 in Upstate). Increases in property tax revenue were higher for municipalities in the NYC suburban region between 2002 and 2012 ($332 per capita) when compared to Upstate municipalities ($56 per capita). The one-size-fits-all tax cap disproportionately affects Upstate municipalities because they are under more fiscal stress, have more tax-exempt property as a part of their tax base, and have higher rates of poverty (Aldag, Warner and Kim, 2017). Many Upstate jurisdictions also kept revenues under the limit determined by the cap for years before it was even implemented (Xu and Warner, 2015).

To Override or Not to Override: That is the Question

The 2017 NYS local government survey asked jurisdictions about their motivations to override the cap or not. The 330 units of local government who indicated they overrode the cap in the past three years pointed to the following reasons motivating their decision: “Uncertainty in budget projections (e.g. Comptroller’s growth factor determination or potential mathematical errors in calculating levy limit),” “To be able to maintain services,” “To be able to maintain long term capital investments,” and/or “To cover increases in costs of employee benefits (e.g. health insurance).” Multiple responses were allowed. Table 2 reports these motivations by government type and differentiated by Upstate vs. NYC Suburban jurisdictions.

Table 2. Why Did Your Jurisdiction Override the Tax Cap?

	Maintain Services	Cover Increasing Costs for Employee Benefits	Maintain Long-term Capital Investments	Uncertainty in Budget Projections
All	**72%**	**60%**	**40%**	**33%**
Cities	80%	55%	55%	15%
Counties	58%	41%	42%	42%
Towns	71%	62%	38%	31%
Villages	74%	60%	43%	40%
Upstate	75%	59%	37%	37%
NYC Suburbs	72%	64%	54%	17%

Data source: Cornell University, Local Government Fiscal Stress in NYS Survey, 2017.
Number of municipalities and counties =330.

Why are localities deciding to override the tax cap in the Empire State? As shown above, overriding the cap was primarily motivated by the aspirations to maintain services and cover the increasing costs of employee benefits. Cities and villages, more than towns and counties, reported overriding in order to maintain services. Towns and villages were more likely to report overriding to cover the increasing costs of employee benefits. Maintaining long-term capital investments motivated 40 percent of all overrides and was highest in cities. When local governments want to invest in a public piece of infrastructure, such as a jail, road or sewerage plant, overriding the cap may be the only way to do so. The calculation of the levy limit is quite complex and changes every year. One-third overriding localities were motivated by this uncertainty. This uncertainty was highest for counties, which may be due, in part, to the significant degree of mandate pressure they must fund with local funds (NYSAC, 2017). Cities were least likely to report uncertainty as a reason to override the cap. When looking at these motivating factors, we see regional differences. NYC suburbs were more likely to override to maintain long-term capital investments and address budget uncertainty. The other motivating factors were not significantly different by region.

The localities that did not override the cap were asked which of the following motivators factored into their decision: “Was not necessary to meet budget needs,” “Voters oppose idea of override,” “Fear of retribution from the State Government,” and/or “In order for residents to qualify for the Tax Freeze Rebate.” Multiple responses were allowed. Table 3 reports these motivations by government type and along the Upstate/NYC Suburban divide.

Table 3. Why Did Your Jurisdiction Not Override the Tax Cap?

	Unnecessary to Meet Budget Needs	Tax Freeze Rebate	Voter Oppose Idea of Override	Fear of State Retribution
All	**59%**	**55%**	**21%**	**18%**
Cities	50%	46%	31%	15%
Counties	69%	63%	25%	6%
Towns	62%	57%	24%	16%
Villages	55%	54%	15%	22%
Upstate	60%	55%	20%	19%
NYC Suburbs	59%	57%	28%	12%

Data source: Cornell University, Local Government Fiscal Stress in NYS Survey, 2017.
Number of municipalities and counties =548

Why did the 548 units of local government in NYS not override the tax cap? Recall that localities in NYS are less likely to override the tax cap than localities in other states with TELs. The most common factor for not overriding was that it was deemed unnecessary to meet local budgetary needs. This indicates that local governments are strategically managing fiscal stress or are functioning within their means. Counties are most likely to report overriding being unnecessary to meet budget needs. The next most indicated factor was for residents to qualify for the Tax Freeze Rebate program. The state's mechanism for minimizing local overrides seems to be working.

The remaining motivating factors of not overriding the cap were voter opposition and fear of retribution from the state government, which was almost three times less likely than overrides being unnecessary and the tax freeze rebate program. Voter opposition is most reported in counties, while fear of state retribution was reported most in village governments and was indicated least by counties. There are regional differences in the motivating factors of not overriding the cap between jurisdictions in Upstate vs. ones located in the NYC suburban fringe. This is now the third time we have seen two different New Yorks in terms of overriding the tax cap, an idea that has been observed before in empirical studies of the cap (Xu and Warner, 2015).

Overriding the Tax Cap – Conclusion

Local governments in NYS are under significant fiscal stress; the property tax cap exacerbates this stress and may further both economic and social inequity. It fully exempt New York City, which impacts the fiscal realities for localities both in its suburban fringe and in Upstate.

As a result, overriding the cap is a tool to link mitigating fiscal stress and addressing social equity, and might be the *only* option for some local governments to maintain services, fund infrastructure, and meet other budgetary needs. Local governments are having to override the cap to maintain services in the face of fiscal stress and state austerity to cover the increasing costs of employee benefits and other necessary expenditures (which are affected by several state mandated procedures). Local government officials are pragmatic and are not overriding the tax cap if they do not need to. Overrides are based on needs, not politics.

Reforms should be made regarding the Property Tax Cap in New York State in light of these results. A relatively easy way to do so would be for state policy makers to write additional exemptions to the TEL. Currently, there are no exemptions in the law for capital expenditures, emergency expenditures, tax-exempt land, or payments in lieu of taxes (Chang and Wen, 2014). The addition of these exemptions would address the overriding concerns of local governments in the state, would allow for additional budgetary flexibility, and would help municipalities break out of the vicious cycle of underfunding infrastructure which may ultimately result in a further decline of their tax base. Additionally, the law should not paint local governments in NYS with such a broad brush, and should consider additional structural differences in tax bases and local budgets along with geographic differences.

Land Banks & Land Trusts

Population loss in cities, irresponsible homeownership, and aging housing have contributed to vacancy and blight in New York State communities. Vacant properties generate costs to the city and reduce neighboring property value, thus total property tax revenue. The legal tools to address these challenges (such as code enforcement, property tax enforcement, and foreclosure systems) may not prevent abandonment, and may discourage potential buyers (Center for Community Progress and the New York Land Bank Association, 2017). The challenge is to successfully overcome these issues while managing to grow their municipal tax base and address the need for affordable housing.

Following the 2008 financial crisis, land banks emerged throughout the US in response to growing inventories of vacant, abandoned, and foreclosed properties. Initially financed largely by the federal stimulus’s Neighborhood Stabilization Program fund, and supported by the land banking nonprofit, Center for Community Progress, land banks have served improve municipal management of foreclosed property through a non-profit entity (Alexander, 2015). By implementing programs that incentivize development and place conditions on the types of development that can occur, land banks encourage responsible home owners, reduce speculation by private investors and decrease disinvestment (Hackworth, 2016).

Land banks are governmental or non-profit organizations able to purchase (at minimum or no cost) and rehabilitate or demolish vacant, abandoned and tax delinquent properties. In NYS, they can serve more than one jurisdiction and may operate at a city, county or regional scale, but must have foreclosing powers. Land banks provide an opportunity to repurpose vacant properties.

The 2011 New York Land Bank Act

The 2011 New York Land Bank Act allowed the creation of the first 10 land banks. The Act grants land banks significant powers, including:

- Super bid authority (they may intervene ahead of investors and speculators)
- Acquisition of foreclosed/vacant properties at lower or no cost through the foreclosure process
- Hold properties tax-free, and the related ability to hold properties indefinitely if needed.
- Buy property that is not distressed if it benefits a development for a parcel.
- Select among prospective buyers based on other factors rather than just cost.
- Short-term ability to use reverter clauses, which grant the ability to seize property from purchasers who have not completed agreed upon work.

These powers, while significant, are tamed by the political ramifications of abusing these powers, for example, with top-down urban renewal approaches. A community can lobby local government leaders to financially curb the power of a land bank if it goes too far. Additional regulations specify the role of land banks and legal requirements for operation. For example, land banks cannot immediately sell back a home to a foreclosed owner. Further, they are required to display publicly their inventories of available properties (Alexander, 2015). They are also authorized to create subsidiaries and hold the title of real property in their name, which allows for collaboration of multiple entities while maintaining control of the property by the land bank.

Though land banks can hold properties indefinitely, they ultimately seek to return them to the tax rolls by improving them in the shortest time possible. Many land banks in NYS engage in demolition and rehabilitation. The Albany County Land Bank transfers these activities to Habitat for Humanity, a non-profit. Meanwhile, the Greater Syracuse Land Bank sells most of their properties as fixer-uppers (doing only the necessary maintenance during ownership). Properties are normally put back into the market through public auctions.

Stakeholders and Coalitions

- **Local government:**
  - Local governments petition the state for authorization to create a land bank. Local officials are often members of the Land Bank's board. In New York State, any governmental and non-profits with foreclosure powers may petition for this— unlike states such as Ohio, where land banks are created at county-level (Center for Community Progress, 2017). Though they may or may not receive funding from local government, collaboration between the two is necessary in order the ease the acquisition process–since land banks acquire properties at minimum to no cost.
- **State government:**
  - Land banks in New York require authorization from the state (Alexander, 2015), which is also their greatest source of funding. The Attorney General's office, through the Land Bank Community Revitalization Initiative, has granted land banks $32.7 million since 2013 (Center for Community Progress, 2017). New York State also modified state legislature to allow the creation of new land banks in addition to the original 10 (Alexander, 2015).
- **Non-profits:**
  - Land banks often partner with other non-profits to share costs (Cotner and Zaranko, 2017).

Table 4. Currently Operating Land Banks in New York State

	Land Bank	Operating Scale	Year Founded
1.	Albany County Land Bank Corporation	County	2014
2.	Allegany County Land Bank	County	2016
3.	Broome County Land Bank Corporation	County	2013
4.	Buffalo Erie Niagara Land Improvement Corporation	Buffalo-Niagara Metropolitan Area	2012
5.	Capital Region Land Reutilization Corporation	Cities of Schenectady and Amsterdam	2012
6.	Cattaraugus County Land Bank	County	2016
7.	Chautauqua County Land Bank Corporation	County	2012
8.	Chemung County Land Bank	County	2016
9.	Finger Lakes Regional Land Bank Corporation	Seneca County	2016
10.	Greater Mohawk Valley Land Bank Corporation	Mohawk Valley Cities of Utica and Rome	2016
11.	Greater Syracuse Property Development Corporation	Onondaga County	2012
12.	Nassau County Land Bank Corporation	County	2012
13.	Newburgh Community Land Bank	City of Newburgh	2012
14.	Niagara-Orleans Regional Land Improvement Corporation	Counties of Niagara and Orleans Cities of Lockport, Niagara Falls, and Tonawanda	2017
15.	Oswego County Land Bank	County	2016
16.	Rochester Land Bank Corporation	City of Rochester	2013
17.	Steuben County Land Bank Corporation	County	2016
18.	Sullivan County Land Bank Corporation	County	2016
19.	Suffolk County Land Bank Corporation	County	2013
20.	Tioga County Land Bank	County	2016
21.	Troy Community Land Bank	City of Troy	2014

Figure 3. Collective Performance and Funding

The original ten land banks in the State of New York have produced the following results:

Number of properties acquired = 1,989
<u>Assessed value returned to the tax rolls = $28.4 million</u>
New tax revenue = $2 million

Source: Center for Community Progress and the New York Land Bank Association, 2017

While land banks depend mainly on external funding through subsidies and grants, they use their own revenues and tax recapture to finance a portion of their operations. Michigan was the first to implement tax recapture through its 2004 Land Bank Fast Track Legislation; up to 50 percent of property taxes from repurposed properties can be allocated to the land bank for 5 years after its return to a private property owner (Alexander, 2011).

While land banks generate some revenues, these are often not sufficient to sustain adequate operation, and without consistent funding support, land banks can fall into a sort of poverty trap. For example, the Greater Syracuse Land Bank garnered a negative public image, because the land bank could not rehabilitate or demolish of foreclosed properties quick enough, thus residents associated properties the land banks obtained control of with blight. In response to citizen discontent, in 2017, the Syracuse Common Council voted to take away $1.5 million in funding from the land bank (Fernandez, 2017. This significant loss of funding perpetuates the constricted ability of this land bank to operate efficiently.

Other revenue streams should also be considered. The 2009 Ohio Land Bank Bill allows 5 percent of penalties and interest generated by delinquent taxes to go to land banks.

Program Offerings

Oftentimes, there is a requirement for future buyers to demonstrate the ability to finance rehabilitation and maintenance of the property. However, in order to promote homeownership and equity, land banks often to create programs such as the following:

- **Homeownership-choice:** Some properties can be designated to accept offers only from buyers who intend to make the property their primary residence.
- **Local public employee discount program:** Reduced sale price to any full-time local employee. This also encourages primary residence and local economic development.
- **Discounts for developers** of income-restricted affordable housing.
- **Rehab incentives:** Partial exemption of taxation on the increase in assessed value due to improvement. This may be particularly useful in the case of historic properties, where the cost of rehabilitation is higher.

Linking Land Banks to Equity— Collaborate with Land Trusts

The independence and legal powers of land banks has drawn some criticism, to the point of accusation of benefitting from foreclosure and displacement (Rosenman *et al.*, 2016; Hackworth, 2016; Taylor, 2017). Some criticize the lack of community voice in top-down land bank governance, and criticize predatory "blight spotting" practices that concentrate demolitions in poor and minority neighborhoods (Rosenman *et al.*, 2016).

Land Banks are often compared with community land trusts due to their similar foci and operating methods. Due to land banks' intent on quickly returning properties to private owners, they may find it difficult to ensure future affordable use. In this case, land banks and land trusts could collaborate to ensure affordable development (Davis, 2012; Fuiji, 2016; Burlington Associates in Community Development, 2016).

Community Land Trusts

Community land trusts (CLTs) are community non-profit organizations that retain land and property control in perpetuity. When selling to a private owner, they keep the title of the underlying land and lease the dwelling to the new owner— with the housing still inheritable and mortgage-able. Through this system, community land trusts can oversee the use of the property by the new owner and impose an affordability restriction by retaining the right to purchase properties back at a determined price. They are also able to intervene in preventing foreclosure buy purchasing the property from a struggling homeowner, retaining the land, and "leasing" at a reduced rate in land trust fashion.

Their role is especially notable in recovering and active urban markets, where speculation, displacement, and gentrification have already become strong issues. In large cities, such as NYC, they have been hailed as responses to the housing crisis (NYC Housing Preservation and Development, 2017). More than one land trust can operate within the same area (neighborhood, city, region or county). The following table on the next page features 23 of 24 CLTs in New York State affiliated with the Community Land Trust Network, as well as five unaffiliated.

Table 5. Currently Operating Land Trusts in New York State

	Land Trust	Operating Scale
1.	596 Acres	City
2.	Adirondack Community Housing Trust	Adirondack Park
3.	Albany Community Land Trust	County
4.	Big Sun	City (NYC)
5.	Buffalo Neighborhood Stabilization Co.	City
6.	Center for NYC Neighborhoods	City
7.	Community Land Trust of Schenectady, Inc	City
8.	Cooper Square Community Land Trust	Neighborhood
9.	East Harlem/El Barrio Community Land Trust	Neighborhood
10.	Farm Catskills	Regional
11.	Green River Community Land Trust	Regional
12.	Habitat for Humanity New York City	City
13.	HOPE Community Inc.	Neighborhood
14.	Initiative for CLT of Southold Town	City
15.	Ithaca Neighborhood Housing Services, Inc.	County
16.	NENA, Northeast Neighborhood Association	Neighborhood
17.	Jubilee Homes of Syracuse Inc	City
18.	Land Stewardship League	Regional
19.	Long Island Housing Partnership, Inc.	Long Island (4 counties)
20.	Open Buffalo	City
21.	Picture the Homeless	City
22.	RAIN Community Land Trust	City (NYC)
23.	Residents for Equitable and Affordable Permanent Shelter	City (Yonkers)
24.	Rochester Regional Community Land Trust	Regional
25.	South Country Community Land Trust	School District
26.	Southold Sound Community Land Trust	Town
27.	Uniondale Community Land Trust, Inc.	Long Island (4 counties)
28.	Urban Homesteading Assistance Board –UHAB	City (NYC)

How can land banks and community land trusts work together? Land banks and community land trusts can work together by integrating their roles. Land banks are not responsible for regulating the property use after selling them. On the other hand, land trusts lack the legal powers granted to land banks regarding property acquisition (Davis, 2017). Combining these roles is a perfect match to achieve equity. Partnership of this kind has begun to be embraced in New York State, with approaches such as the Albany County Land Bank and Albany Community Land Trust Partnership, which ensures future affordability in a recovering market (Cotner and Zarank, 2017).

Table 6. Land Banks and Land Trusts: A Comparison

	Land Banks	Community Land Trusts
Origin	State-government authorized Powers derive from the 2011 New York Land Bank Act	Community-created
Stakeholders	Local government	Community (residents, leaseholders) Local government Non-profit organizations
Level of operation	Town, city, county or regional (must have foreclosure powers)	Usually neighborhood, town or city
Objective	Fight blight and vacancy. Return vacant, abandoned, tax delinquent and foreclosed properties to the market in the shortest time possible	Fight displacement and homelessness Preserve community control and ensure affordable development
Tax-exempt?	Yes	Eligible
How do they operate?	Granted super bid authority to purchase properties at low or no cost, which they can hold tax-free indefinitely. They partner with non-profits to rehabilitate, demolish them, or return them to the market as fixer-uppers through auctions.	When selling property or land, they retain the title on behalf of the community. It's "leased" to the new owner –but still inheritable and mortgage-able.
How do they address inclusive, equitable growth?	They often include programs offering discounts for local public employees and developers of affordable housing.	Permanently responsible for regulating the use given to the property by the new owner. They can impose an affordability restriction by retaining the right to purchase properties back at a determined price.
Restrictions, challenges	They are not responsible for regulating property use/affordability after disposing of it.	Lack land banks' powers regarding property acquisition, retention and rehabilitation.
Currently	21 operating land banks across New York. As of 2017, they have managed to return 28.4 million in assessed value to the tax rolls, and produce 2 million in new tax revenue.	There are 24 operating in New York State affiliated to the National Community Land Trust Network.

Source: Burlington Associates in Community Development (2016)

Method: Case Studies of NYS Land Banks

We examined three different land banks across the state to understand the varying origins, challenges, and programs of NYS land banks. We draw from semi-structured personal interviews held with Executive Director Madeline Fletcher of Newburgh Community Land Bank and Katelyn Wright of the Greater Syracuse Land Bank. We supplement these cases with additional comments made by Cory Ellis and Adam Zaranko of the Albany County Land Bank, and Sue Cotner of the Albany Land Trust at the 2017 *Community Renewal Conference* at Albany Law School.

Table 7. Case Selection: Challenges, Characteristics, and Programs

	Overview	Challenges	Notable Characteristics	Portfolio of Programs
Greater Syracuse Land Development Corp. *(2012- Present)*	**County-wide** **1271** property acquisitions, and **96** returned to tax rolls. **$730,000** in additional property tax revenue generated per year.	High vacancy rate. Lack of investment within city boundaries. Large amount of city-owned tax-exempt land.	Largest land bank in NYS	-Land Assembly -Demolition/ Deconstruction -Stabilization -Tenant to Homeowner -Neighborhood Based Lot Maintenance -Volunteer Beautification Projects -Homeownership Choice Program -Residential Renovation Energy Improvement Standards -Tenant to Homeowner Program -Side Lot Program / Community Gardens
Newburgh Land Bank *(2012-Present)*	**Downtown core** **100** property acquisitions, and **28** returned to tax rolls. **$ 53,000** in additional property tax revenue generated per year.	Cost and construction burdens of historic property. Large amount of city-owned parcels.	Relatively strong regional housing market. Focused on Downtown Historic Core.	-Land Assembly -Demolition -Community Arts Projects -Stabilization -Community Garden / Side Lot Programs -Historic Preservation Tax Credit Assistance -Artist in Residence program
Albany County Land Bank *(2014- Present)*	**County-wide** **631** property acquisitions, and **96** returned to tax rolls. **$1.6 million** in savings for local governments since 2014.	Large amount of blighted property.	**Partnership with Albany Community Land Trust** Inclusive community advising process.	-Land Assembly -Demolition -Breathing Lights Community Arts Program -Stabilization -Vacant Lots Program -Community Garden Program

Syracuse – Large Scale Land Banking

As New York's largest and most funded land bank, the Greater Syracuse Land Bank has acquired over 1,200 properties and spurred $17.6 million in investment since its inception in 2013. Syracuse, a city which has lost 35 percent of its peak 1950 population contained over 9,000 vacant homes at the land bank's inception. In response to the abundance of abandoned and vacant properties, the land bank was formed to provide a better-managed solution to the large inventory of city-owned foreclosed property. Funded primarily from sales revenue, grants from the New York State Attorney General's Office, the City of Syracuse and Onondaga County, the land bank has since lost demolition funding from the City of Syracuse and reached out to other sources (Katelyn Wright, Personal Interview, November 7, 2017).

The large inventory of property has provided yearly sales revenue of $1.5 million, which supports approximately 75% of the land bank's operating costs. The bank promotes redevelopment of the vacant and abandoned property in the city and county by offering an abundance of property listings to first-time home buyers, Low Income Housing Tax Credit (LIHTC) developers and area landlords (Katelyn Wright, Personal Interview, November 7, 2017). The land bank's 501 total properties sold has led to an average of $884,000 returned to the local tax rolls every year.

Newburgh - Neighborhood Focused Revitalization

Beginning in 2012 as an effort provide a non-profit entity to put tax foreclosed property to productive use, the Newburgh Land Bank has focused on the revitalization of 16 square blocks of the city's downtown core. Operating primarily within the East End Historic District, where costs of buying and renovating property typically exceed the sale value of an improved property, the land bank has focused on absorbing the upfront costs of developments downtown.

While a strong housing market in the Hudson River Valley makes it likely that investment would have taken place without the involvement of a land bank, the added value of the Newburgh Land Bank has been in its ability to provide a thoughtful process to guide development in the city's center. Additionally, initiatives led by the land bank have facilitated the development of affordable housing, led to partnerships with community organizations, and resulted to place-based arts and community garden initiatives. The acquisition of 100 properties has led to $20 million of construction in downtown Newburgh (Madeline Fletcher, Personal Interview, October 26, 2017).

Albany County – Partnering Land Banks with Land Trusts

Since 2014, the Albany County Land Bank has brought in $7.7 million in private development funds to the neighborhoods it serves, acting as the second most active land bank in the state (Albany County Land Bank, 2017). Central to its operations has been its community outreach and partnerships with nonprofits and community groups. When the land bank formed, the organization sought out area residents from the core land-banking communities to serve on the advisory committee and accepted anyone who applied. Their effort to include area residents in the purchaser review process suggests an underlying commitment to foster social equity through a community-advised approach. By seeking to include residents of low income and minority communities who have historically been excluded from the development process, the land bank hopes to encourage a community-led development approach that is sensitive to issues of gentrification and the historic legacy of inequitable development in communities of color (Ellis, 2017; Albany Community Land Bank, 2017)

The Albany County Land Bank's new partnership with the Albany Community Land Trust as part of the Center for Community Progress' National Technical Assistance Scholarship Program indicates a commitment to promoting social equity through affordable housing. Generally focused on stabilizing lower income neighborhoods in the city core, The Albany Land Bank provides the Albany Community Land Trust property that it acquires in higher income neighborhoods in the inner ring suburbs. This helps the land bank avoid the operating costs of maintaining additional properties, while allowing the land trust to work towards its affordable housing mission (Cotner and Zaranko, 2017; Albany Community Land Bank, 2017). While Albany County's focus on promoting affordable housing may ultimately reduce its effect in growing the tax base, its social equity agenda provides a thoughtful and transferable approach to community-driven development which may be applied to other localities across the Empire State.

Land Banks & Land Trusts – Conclusion

Since the enactment of the New York State land banking Act in 2011, land banks have acquired nearly 2000 properties and returned over 28 million dollars in assessed value to the tax rolls (Center for Community Progress, New York State Land Banks Association, 2017). As the original land banks of New York's mid-sized cities pass their five-year operations mark, a number of rural land banks have been established within the last year. As organizations, such as the Greater Mohawk Valley Land Bank which now operates in 169 municipalities across 6 counties, attempt to address rural blight through regional cooperation, questions remain about the operational viability of land banks in rural communities (Eisenberg, 2017). While these small land banks may help to provide a mechanism to remove blight, they function in a substantially different way than their larger city counterparts. State policy should take this into consideration.

Though perhaps not appropriate for all municipalities, in specific contexts, land banks can serve as a tool to grow the local tax base by addressing blight and vacancy. By partnering with community land trusts, they can thoughtfully drive development and promote social equity.

Payments in Lieu of Taxes (PILOTS)

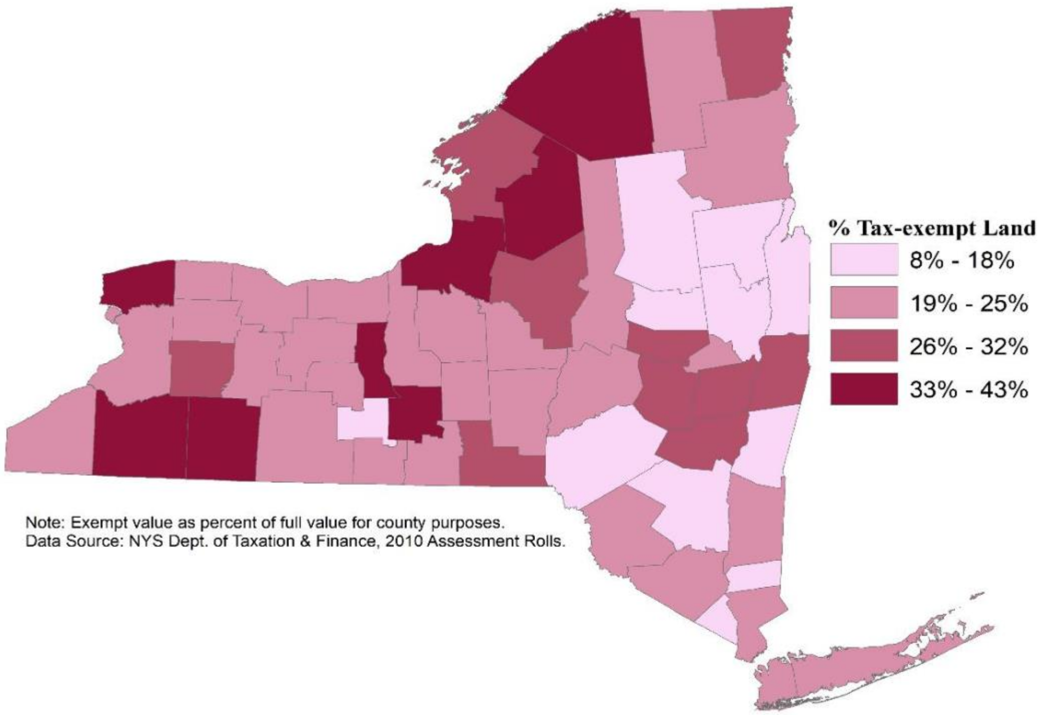
The property tax is one of the most important sources of local revenue in NYS. It is one of the few revenue sources that localities have control over, though this is weakened by the tax cap. Property tax revenue accounts for approximately 30% of total revenue across NYS municipalities (NYS Comptroller, 2013). Tax-exempt property value is thus a major issue in New York State. Over 50% of local governments identify it as a moderate or significant source of fiscal stress (Aldag, Warner, and Kim, 2017). PILOTs are a voluntary agreement between local governments and tax-exempt property users or owners. Unlike other strategies that seek to raise revenue by identifying new external sources, PILOTs are a way to obtain additional contributions from the source of the gap.

There are two different types of PILOTs, often rendering conversations about them confusing. There is no set terminology to distinguish between them, but it is useful to think of one as a tax abatement and one as a service agreement. Tax abatement PILOTs are made with a property-owner regarding a property that would otherwise be subject to taxation. This type of PILOT is a net loss for local government revenue as the payment is less than the taxes that would have been paid without the agreement. Tax abatement PILOTs are often negotiated to act as a development incentive. Service agreement PILOTs will be the focus of this report section, and the type being referred to unless specified otherwise. These PILOTs are made with tax-exempt property owners or users to compensate for municipal services these properties benefit from but do not pay for, such as emergency services and road repair. These agreements are a net gain for local revenue as the municipality otherwise would have received no payment at all.

Why Establish a PILOT with Nonprofit Entities?

PILOTs are most common in the Northeastern US due to local governments' high reliance on real property tax, as well as the large number and local power of non-profit institutions. From a survey of nearly 600 local government officials across the country, the Northeast was found to contain 80% of all localities that receive PILOTs, 73% of nonprofits that make these payments, and 83% of total nationwide PILOT revenue. PILOTs in New York comprise 2.7% of nationwide PILOT revenue, making it the state with 9th largest PILOT program in terms of revenue (Langley *et al.*, 2012). In 2012, the real property value in NYS was $2.5 trillion and $680 billion (or 27%) was tax-exempt.

Figure 4. Tax-exempt Land as Percentage of Tax Assessed Value: For County Uses



Tax-exempt property has a varied, but notable presence across New York State (as seen in the map). Up to 60% of real property value is tax-exempt for local use in some municipalities such as Albany and Ithaca (NYS Comptroller, 2013). Much of this value is a result of increasing economic reliance on property tax-exempt nonprofits such as education and healthcare organizations ("eds and meds") instead of manufacturing industries. Eds and meds are frequently the subject of PILOT agreements: 90% of nationwide PILOT revenue from nonprofits comes from hospitals, colleges, and universities (Langley *et al.*, 2012). This is largely because tax exemptions for these types of large non-profits place the most amount of stress on municipalities and are best situated for local negotiations.

Property owned by government—including New York State, local governments and school districts, Native American nations, and foreign countries—accounts for the largest amount of tax-exempt property value across the state, approximately 41% ($343 billion) (NYS Comptroller, 2013). Nationally, PILOTs are the primary mechanism of government compensation for tax-exempt land-holdings, however this is not true in New York. New York State primarily relies on state agreement to pay local property taxes. In New York over 3.6 million acres of state-owned land is subject to taxes, mostly in the Adirondack and Catskill regions. Approximately 43% of

New York's 1,700 county, town and school taxing units receive tax payments on state land parcels. This is a significantly higher rate than average. PILOT payments from New York State are relatively infrequent and mostly used only as stopgap measures to cover transitions from taxable to exempt status (New York State Department of Taxation and Finance, 2017).

PILOTs for tax-exempt nonprofits have been in use since at least the 1920s, but frequency has risen dramatically since the 1990s especially for universities and hospitals (McGiverin-Bohan *et al*., 2016). Over 218 jurisdictions in 28 states currently have PILOT agreements with non-profits (Langley *et al*., 2012). Much of this is likely due to increased economic and political power of the nonprofit sector, a need to find additional revenue sources to address fiscal stress, and shifting relationships between communities and nonprofit organizations. The charitable property tax exemption was originally intended to ensure the success of aid organizations by minimizing costs. These organizations lessened the burden of service provision on localities by subsidizing services that were being provided by charities instead of by the public sector. However, this scenario no longer describes many modern non-profits. Now, the exemption often increases the burden of service provision, as organizations continue to consume municipal services they do not pay for.

The non-profit sector has experienced massive growth, outpacing the GDP for the last few years and creating growing divisions between large and small organizations (Langley *et al*., 2012). Many large nonprofits now serve as regional economic drivers, often indistinguishable from their for-profit counterparts. Treating nonprofits of all sizes equally means exemptions now mostly benefit organizations with the highest property holdings rather than those with the highest rate of public service provision and need. The tax exemption essentially requires that local government provide services for free. Additionally, increased citizen mobility has created a geographic mismatch between those who pay for and those who benefit from these non-profit services. Local residents bear the tax burden for non-local users, often for services to which they do not have access. This is inequitable. For example, only a small number of local tax-payers may get into a university (Kenyon and Langley, 2011).

It is extremely rare that PILOTs make up more than 1% of a municipality's total revenues and are never more than 5% of a municipality's overall budget, but they can still provide essential revenue for important services (Kenyon and Langley, 2011). PILOTs are less an attempt to completely close deficits than they are a method to encourage large organizations to partially cover the cost of services they use, lessen tax burdens on local residents, and start a conversation to recognize the many shared goals of municipalities and nonprofits such as a growing local economy, skilled workers and adequate infrastructure. Other tools that work to address the stress of providing services for properties that don't contribute taxes are user fees, benefit assessments, and special districts (Byrd, 2014). Each of these is another mechanism that exists for getting non-profits to assist local government revenue and can be used successfully in addition to PILOTs. They are each useful as a way to seek revenue for a specific service or set of services, which combined with the more general revenue produced by PILOTs can increase transparency and support for how payments are being used.

How to Establish a PILOT: A Framework

There are many possible approaches to negotiating PILOT agreements, but the vast majority are ad hoc, short-term, and rely on confrontational strategies from local government officials (Kenyon and Langley, 2011). This method basically involves singling out a single organization and using government leverage to come to an agreement, usually of around 10 years with a suggested but not mandated payment amount. This strategy is unappealing for many local leaders who recognize and appreciate these organizations as an important community asset and may be concerned about the potential political costs of such an adversarial strategy (Mayhew, 2015). Establishing a PILOT requires leadership from officials and local administrators, who have much discretion in shaping the process (Longoria, 2012). PILOT negotiations include myriad opportunities for variation, but there are four main decisions that have wide-ranging impact:

- **Consistency:** Whether the agreement is ad hoc or part of a systematic approach encoded in policy or overseen by a task force.
- **Government leverage:** Whether local officials rely on carrot or stick approaches. Carrot approaches are collaborative, encouraging the organization to be a good neighbor, building community support for a PILOT, or engaging in dialogue about the benefits of community services and budget strains caused by tax exemption and service provision. Stick strategies are more confrontational, often threatening to levy new fees or leveraging building permits and/or zoning decisions.
- **Timeframe:** Whether the agreement is short-term, long-term, or a one-time payment.
- **Payment determination:** Whether it is decided annually by the organization, specified as a lump sum, or calculated based on features such as property value, economic activity, or estimated cost of providing public services (Kenyon and Langley, 2010).

This methodological framework is applied to each of the following case studies. They exemplify how these features play out in practice.

Case Study 1: Stick Approaches in Ithaca

Sixty percent of the property value in Ithaca is tax- exempt, over 90% of this tax-exempt real estate value is owned by Cornell University (NYS Department of Taxation and Finance, 2017). Cornell has engaged in PILOT agreements every decade or so beginning with an agreement in 1967 to contribute $25,000 to cover fire protection (Altschuler and Kramnick, 2014). The negotiation in 1994 by Mayor Ben Nichols is a characteristic example of the standard model of a short-term, adversarial, flexible payment agreement. In the fall of 1994 Nichols approached Cornell with a request to increase their annual fee from $143,000 to $2.5 million.

This number was calculated based on the property value of non-academic buildings including dorms, fraternity and sorority houses, and the campus store and would cover the cost of services consumed by the university. Cornell responded that such an increase would mean having to fire numerous faculty and raise student tuition, and focused on the fact they had no legal obligation to agree to a PILOT (Fineman, 1995). The mayor leveraged a usually unenforced parking requirement that denied any construction at Cornell until they came into compliance with the code by providing an additional 15,000 spaces (New York Times, 1995).

Construction was halted for the duration of the summer, with an agreement finally reached in October to incrementally increase annual payments from $250,000 in 1995 to $1 million by 2007 (Glaberson, 1996). However, the specific amount was still decided nearly entirely by Cornell, largely based on what the university "thinks it can afford". While a multi-year agreement may not seem short-term, it is when compared to others that span decades or the indefinite amount of time that Cornell will remain in Ithaca. The adversarial nature of negotiations led to ongoing tension between Mayor Nichols and university administration, marking his last term in public office. However, his risk established the largest increase in Cornell's PILOT to date and generated millions of dollars in revenue for Ithaca. Today, Cornell pays approximately $1.25 million annually and the current mayor, Svante Myrick, is requesting a new increase to $6 million (O'Connor, 2016).

Case Study 2: Carrots in Syracuse

The City of Syracuse is heavily reliant on eds and meds as part of its economic growth strategy. 51% of property in Syracuse is tax-exempt, totaling $3.8 billion in value (NYS Department of Taxation and Finance, 2017). The largest property owner is Syracuse University with $24 million in foregone property tax on $630 million worth of exempt property value. The most recent PILOT agreement (referred to by Syracuse as a “service agreement”) was reached in 2011 and renewed in 2016 by Mayor Stephanie Miner who took a collaborative approach in negotiations with the university.

She relied on mindsets of fairness and communal responsibility to leverage the university’s desire to play a positive role in the community. She approached representatives at Syracuse University not with a specific number she wanted them to pay, but with numbers on current service usage and city budget gaps. The intention was to have a conversation rather than a debate (Knauss, 2011). The conversation ended with a university commitment to contribute $7 million over the course of 5 years. Payments increased to $500,000 in 2011, $800,000 in 2016, and will increase annually until totaling $1 million in 2021 (Syracuse Office of the Mayor, 2016).

Constructive conversations were able to uncover shared interests between organizations and public officials, acknowledging the important role the university already plays in the local economy, and the benefit it receives from the high quality services provided by the City. City officials have approached other non-profit organizations with the hope of also establishing PILOTs with healthcare organizations throughout Syracuse. So far, these discussions have not been able to reach an agreement comparable to that of the university (Knauss, 2011).

Case Study 3: Systematic PILOT Program in Oswego County

Many case studies, theories, and examinations of PILOTs rely on examples in urban areas. However, such is the case with land banks, this tool is also applicable and transferable to more rural areas though application may look different. Oswego County is an example of a long- term, systematic approach to establishing a PILOT. Systematic approaches are highly regarded as they can create a justifiable explanation that is equally applied to all organizations. Systematic programs usually include a threshold of property value to decide who to include, a consistent basis to calculate suggested payments, inclusion of community benefits to offset payment, and long- term agreements of over 20 years (Kenyon and Langley, 2011).

In NYS, wind and solar developers receive property tax exemptions equal to the amount of the increased value generated from the renewable energy project. Local governments may opt out of this policy, but a few have chosen to instead establish county-wide PILOT programs. This is largely to have a level of local control in how different projects are treated. Opting out would require all projects to pay full property taxes, while introducing a PILOT program allows the county to only require full payment for projects that meet certain size requirements. In August

2017, Oswego County passed a policy that any wind energy project generating more than 25MWs must pay a PILOT equal to the full assessed value of the property, including the increase from additional energy infrastructure (Groom, 2017). While there have been concerns that this policy will inhibit wind programs, concerns that benefits of the program were over-stated and that property tax exemption was an inappropriate incentive encouraged local officials to pass the law (Reitz, 2017).

Table 8. Applying Framework to Case Studies

	Ithaca (Cornell University)	**Syracuse** (Syracuse University)	**Oswego County** (Wind Projects)
Consistency	Ad Hoc	Ad Hoc	Systematic
Government Leverage	Stick	Carrot	Stick
Timeframe	Short-Term	Short-Term	Ongoing
Payment Determination	Flexible Payment	Set by agreement between city and university	Full amount of foregone taxes

PILOTs – Conclusion

Municipalities and nonprofits have many shared interests in the economic development of their locality. Both desire high quality service provision as well as an economic landscape that encourages nonprofit and for-profit success. PILOTs are not just a way to raise revenue, but an opportunity to lessen the burden on local tax-payers to subsidize service provision for nonprofits, and increase collaboration between local and nonprofit leaders to address fiscal stress directly the source and work together to reach shared goals. While these agreements may not solve budget problems in their entirety they are a step in the right direction and an opportunity to mobilize public interest for further initiatives.

Community Benefits Agreements (CBAs)

Increased state mandates and flat revenue sources have steadily increased local government stress (NACo, 2016). A 2017 Cornell survey of NYS local governments indicates that 67 percent of local government administrators in NYS attribute economic development challenges as either a “moderate” or “significant” contributors to their fiscal stress situation (Aldag, Warner, and Kim, 2017). In response to these economic development challenges, governments and communities can turn to community benefits agreements (CBAs) as a tool to address economic development challenges while achieving equity.

CBAs and PILOTs have many similarities, and may be used in coordination by local officials. While the type of PILOTs included in our toolbox focus on nonprofits, CBAs leverage the partnerships of community coalitions to compel developers or tax-exempt anchor institutions to provide various benefits to the community when development begins. A CBA is a private agreement between a community coalition and the developer. However, local governments can be a key partner in the arrangement or proposition of the agreement (Wolf-Powers, 2010). In an environment in which local governments have shrinking means to provide equitable community and economic development initiatives, CBAs assist administrators in doing so.

This section will outline the goals, benefits, and ideal development processes of a creating CBA, as well as provide a case study of an active CBA campaign in Buffalo, NY. It will provide a framework for the applicability of CBAs in NYS, as well as highlight opportunities for similar innovative economic development strategies.

What is a CBA? Why Implement One in Your Locality?

A CBA is a legally binding private contract between a developer and a broad community coalition that outlines a set of contributions to the community from the developer in exchange for community support for the project (Partnership for Working Families, 2015). CBAs provide communities with amenities and benefits previously not feasible, and developers with an assurance and ease of the project approval process (Salkin and Lavine, 2008). CBAs emerge when a community bears a clear disproportionate burden of a real estate development's negative externalities; they can also be initiated by a developer to reach a clear consensus regarding a development. A regulator may suggest involved parties to consider engaging in a CBA, and in some instances may engage directly in the CBA (Wolf-Powers, 2010). CBAs are often targeted at projects that primarily employ workers outside the area, thus not helping the local neighborhood of incoming economic development projects (Raffol, 2012). Common projects where CBAs are implemented include Eds & Meds, Sports Stadiums, Historic Redevelopment, Mixed Use, technology infrastructure, and other large-scale projects (Doussard, 2011).

Community benefits agreements offer positive outcomes for all development stakeholders and can ensure social equity is included in the development process. Economic development subsidies, or tax abatements, are often tied to public approval. By initiating a CBA, developers can secure these incentives and ensure their project will not be stalled in the proposal phase due to community opposition. This lowers developer risk and shortens their project time line, which translates into lower costs. While economic development projects are often subsidized by taxpayer dollars, they produce decidedly mixed results for the existing community members (Gross, 2005). CBAs offset these unfair impacts and negative externalities of development and offer a means to spread benefits to the community that supports them. Governments also benefit from CBAs, insofar that the agreements expedite development, thus increasing the property tax base and bringing jobs. CBAs can also be targeted towards tax-exempt organizations to ensure they contribute their fair share to the community.

Table 8. Stakeholders in a CBA and Aligning Interests

Why Implement a Community Benefits Agreement?	
Developer	Secure economic development funding. Reliably acquire approval and/or public support for projects.
Citizens	Secure community, environmental, and economic development benefits.
Government	Increase tax base; balance service provision cost in case of tax-exempt Promote equitable and inclusive economic development.

Creating a CBA

In creating a CBA, it is most helpful for community coalitions to exist prior to proposal of the development. This allows coalescence around a specific goal and swift mobilization to apply leverage to a project. When the development is proposed, a lead coalition will take the helm in organizing the rest of the community. The coalition can also partner with a University or other research organization to conduct a demographic analysis of the affected neighborhoods. These spatial analyses are critical to clearly understand the demographic makeup of the community and the impact of the proposed development. This ensures that all members of the community are represented by the coalition. The developer must also be engaged early in the process.

Once the coalition is firmly established and demonstrably representative of the community including the developer, open public meetings must be conducted to establish the needs and demands of the community, and to negotiate a benefits package to be provided by the developer. Once the terms of the agreement are finalized, the coalition has a legal representative draft a contract. Negotiators must ensure the document provides clear demonstration of these responsibilities, enforcement protocols, and outline penalties. In cases of continuous benefits being provided, the coalition must monitor these provisions post development approval, or seek legal recourse. As contract law allows any signatories to pursue enforcement, community coalitions or governments are advised to individually sign the CBA, so that if the coalition disbands, the subsidiary advocacy groups can still monitor the project. It is also worth warning that CBAs become null and void if a developer declares bankruptcy (Doussard, 2011). This contributes to strategically seeking out one-time benefits over continuous payments.

Ideal Circumstances

The first and most important requirement to achieving a CBA is to have an existing community coalition. Before approaching the developer, the coalition must have a clearly defined and unified goal (Parks and Warren, 2009), as this focuses the negotiations. It is also imperative that the coalition is a diverse representation of the community in question, to ensure the goals are suitable to the needs of the community. For example, if the development affects multiple census tracts, the coalition must represent each of them. Likewise, if it affects the entire city, then the coalition must represent all residents (McManus, 2015). This would be the case in tax-exempt property, as all residents are effectively subsidizing the developing organization.

CBAs work best when organized prior to the construction of the development, because the community's leverage is strongest before the shovels hit the ground. Additionally, CBAs work best in large, one-time projects. One-time developments are easier to assess potential impacts and thus clearly negotiate benefits, and do not require constant monitoring (Gross, 2005). Furthermore, the legal document must have a clear designation of agreed terms, responsibility of monitoring, enforcement, and remedies of any breaches of the CBA contract (Salkin and Lavine, 2008).

These agreements are most successful when made in communities and sectors that are experiencing economic growth. CBAs depend on the political leverage of the community's opposition, so without significant demand, increased regulation will result in companies locating elsewhere (Parks and Warren, 2009). Areas without high development demand cannot make demands of incoming developers as they are desperate for jobs and revenue. However, communities that are not experiencing significant economic growth can still look to anchor institutions— these are organizations that have a significant community presence, and do not usually transplant themselves. Anchor institutions have much to gain by being a prominent positive figure in the community, which gives some leverage to affected communities. Forming a CBA allows these institutions to be that prominent figure by balancing their community contribution in lieu of taxes.

Applicability and Transferability

The first CBA was negotiated in Los Angeles in 1998 regarding the Hollywood and Vine Center, a large theater. Residents and business owners grew concerned that traffic and congestion would increase, and that there might be negative environmental or aesthetic effects from the theater (Salkin and Lavine, 2008). With the help of a Councilwoman and community coalition Los Angeles for a New Economy, the developer reached an agreement in which nearly 70 percent of initial hires were from the immediate area and half of the permanent positions pay living wages as of 2008. Traffic improvements were also financed by the developer. Following the success of this CBA, this community coalition has successfully initiated others in Los Angeles (Salkin and Lavine, 2008). CBAs have since spread throughout the country on a variety of development projects.

When building a large addition, the Yale-New Haven research hospital was pressured by a local community coalition of over 20 organizations to enter a CBA. The benefits were namely affordable housing, local hiring, guaranteed union rights, among others. The CBA was successfully signed; however, the developer's cash benefit payment and local hiring took nearly a year to be realized (Doussard, 2011). This illustrates why a CBA must have clear, binding terms.

A few CBAs have been successfully implemented in New York State. Three CBAs have been signed in New York City (Doussard, 2011), as well as one with the Syracuse School Board (Community Benefits Agreements, 2009). Currently, there is an active push for creation of a CBA in Buffalo. In Buffalo, the premiere economic development opportunity and anchor institution is the Buffalo Niagara Medical Campus (BNMC), which is agglomerated with the University of Buffalo. This project was formed in 2002, and has been the driver of economic development in Buffalo as its downtown experiences a resurgence.

By 2014, the Partnership for the Public Good (PPG) led 18 other community and business organizations to create a local coalition to push for a CBA with the BMNC. The PPG conducted demographic research to understand the dynamics of the community, as well as identify best practices of CBAs, and the feasibility of one with the BNMC. While several organizations are in solidarity to accomplish the agreement, there is not complete representation from the entire community. The coalition group, Open Buffalo, has primarily worked with one neighborhood, Fruitbelt, and largely ignored the other census tracts in the area (McManus, 2015). The table below outlines the ideal circumstances for a CBA, and which characterize the BNMC CBA negotiations.

Table 9. The Case of the Buffalo Niagara Medical Campus: Ideal Circumstances

Context	Ideal Circumstance	BNMC
Formation of Coalition	Coalitions representative of community	-
	Common thread between coalition	✓
	Organized prior to construction	-
Development	Area of economic growth	✓
	One-time development	-
Document	Clear designation of agreed terms	N/A
	Effective enforcement and accountability	N/A

Source: Clint McManus, 2015

The BNMC does not perfectly match the ideal criteria for a CBA, which has contributed to the difficulty the coalition has had in establishing a CBA. While downtown Buffalo is experiencing economic growth, the medical campus has leverage over the community not only because it existed twelve years prior to discussion of a CBA started, but also because the medical campus is the city's premier economic development powerhouse. While there is engagement from the one of the area's disenfranchised neighborhoods, Fruitbelt, the neighborhood coalition would have a stronger political basis if all neighborhoods were represented (McManus, 2015). Some communities do not have the will to fight the status quo (a major economic engine) because it has existed successfully in the neighborhood for some time. This can be countered by local leaders educating their constituents about the possibility of creating such an agreement. Details of the document are not applicable because it has not yet been drafted; it is a work in progress. Future efforts to establish a CBA in NYS should apply this framework from early in the CBA process to deal with fiscal stress while maintaining equity.

Menu of Benefits

The types of benefits negotiated through a CBA fall in two general categories: project-specific and community-specific. For example, project-specific benefits of a CBA instituted with an airport might address pollution and noise abatement, or a new recreation center might offer some type of parking provision. (McManus, 2015). Community-specific benefits could include local hiring, anti-displacement policies and other equity-fostering provisions. The table below details an example menu of CBA benefits; however, each different project and community may select various items of the menu to fit their own set of local community and economic needs. The table below also displays categories of benefits that the Buffalo community coalition has already received from the BNMC without the approval of a formal CBA.

Table 10. The Case of the Buffalo Niagara Medical Campus: Benefits Secured

Provision Type	Common Provision Examples	BNMC
Workforce Support	Living wage requirements, First source and targeted hiring, Early job notification, Worker retention initiatives, Workforce training and development, Job Shadowing	✓✓
Community Empowerment	Community representation in decision-making, Community approval of developers and industrial/commercial interest	
Community Amenities & Services	Access to- or construction of community facilities, Expanded Wi-fi networks, Community programming, Financial education and support, Child care, Language and food access, Community health outreach, Traffic reduction and parking plans	✓
Community Preservation	Anti-displacement policies, Historic and aesthetic preservation, Affordable housing construction, Homebuyer support, Funding for home improvements	
Business Support & Procurement	Women & minority-owned enterprise contract quotas, Prohibition of big box stores, Responsible contracting, Financial and technical support for local small businesses	✓
Environmental Resiliency	Green building requirements, Vehicle fleet standards, Waste reduction programming, Public transit incentives, Renewable energy research and implementation, Storm water management	✓
Enforcement & Monitoring	Lump sum monetary contribution, Annual monetary contribution, Community oversight, Annual reporting, Monetary penalties	

Source: Clint McManus, 2015

Lessons Learned from BNMC

The BNMC CBA is still a work in progress, however the pressure from the coalition to create a CBA has led the campus to begin offering community benefits. These include the following: local procurement, hiring under-employed minorities, creating a transportation and parking plan, and greening new projects. (McManus, 2015).

Another Buffalo organization, the Partnership for Public Good, has also been able to secure economic development benefits by pushing for a CBA, without a formal agreement. The Erie Canal Harbor Development Corporation is a waterfront revitalization project that has adopted a set of "high road" economic development principles, which include CBA-like benefits such as local hiring and local business recruitment, affordable housing, and sustainable building practices (Reynolds, 2013). "High road" economic development principles emphasize high-quality jobs, sustainability, community health and engagement, and other related benefits (Meyers, 2015). Efforts to establish "high road" economic development principles have led the City of Buffalo to establish a living wage ordinance which applies to city workers and contractors (Partnership for Public Good, 2010). Even without signing a legal document, creating a community coalition to mobilize demands for fair economic development principles can achieve positive results.

It would behoove non-profit organizations and governments to consider community benefits agreements as an option to foster equity in economic development projects. If a community's context is not ideal for CBAs, local governments might benefit from instituting "high road" principles in their economic development projects, or better yet instill "high road" principles into local policy. For example, in Atlanta, the area surrounding a defunct rail line has been designated by the city as a special tax allocation district. According to the policy, taxes levied for projects in the district must abide by a clear set of guidelines, which include a suite of designations that are very similar to the CBA menu of benefits (Atlanta BeltLine Inc., 2009). By using policy, local governments can tie equitable economic development initiatives to development incentives without the hassle and risk of ad-hoc negotiations. This is yet another similarity between the framework and process of CBAs and PILOTs.

Another opportunity for local government administrators to be aware of is the potential to combine CBAs with other tools, such as PILOTS. Given the reality that many New York State municipalities depend on tax-exempt organizations, combining tools while negotiating the approval of a development gives local governments a more diverse suite of options. It also allows local officials to both manage fiscal stress and address social equity. If an organization is opposed to paying a PILOT, it is possible that engaging in a CBA would satisfy multiple parties, or vice versa. They can also be used together. For instance, the CBA between the City of Salem, OR and the North Shore Medical Center incorporates a PILOT as part of the suite of benefits in their CBA (City of Salem, 2017). The benefits of using both tools may outweigh the benefits of using one in isolation.

CBAs - Conclusion

Community benefits agreements leverage both the political strength in numbers of the local community and market forces to provide economic development opportunities for residents as well as business developers. Community benefits agreements encourage economic growth while securing dividends to property owners and non-property owners alike. Local government leaders should advocate for both community benefits agreements and high road principles to support local residents, the local economy, or to ease the development process.

In the face of fiscal stress, large-scale economic development projects and anchor institutions can help municipalities grow. However, these large-scale projects often have unintended consequences for the neighborhood in which they enter, which may result in social inequity. CBAs allow a community to organize against the perceived negative externalities and secure provisions from the developer through a legally binding agreement. This is often acceptable to developers because signing the agreement ensures community support for a project, thus, reducing risk, cost, and time in the approval process. CBAs can also be suggested by a local leader to either party to ease the process and secure benefits for the community. Local governments would also benefit from considering using policy to guarantee the process of high road development. When local governments offer their assistance to an incoming project, they can tie this support to systematically requiring developers offer the community benefits. CBAs are not widely present in NYS, but by learning from Buffalo and NYC, other municipalities can apply this tool to manage fiscal stress and address social equity.

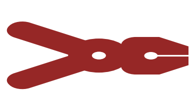
The Municipal Toolbox – Linking Fiscal Stress and Equity

According to the 2017 survey of local government officials, localities in New York State experience fiscal stress for numerous reasons outside of their control, including economic, demographic, and state policy. We examined four sources that are within local government's capacity to respond: the property tax cap, declining population, tax-exempt property, and challenges related to economic development. The four tools in our toolbox help respond to these sources while maintaining an equity-based agenda if used properly.

Governments stressed by the Property Tax Cap can explore overriding the cap to increase property tax revenue and fund services. Communities with declining population should investigate land banks, community land trust, and the possibility of coordinating the two, to improve blighted areas and grow the tax base. Areas with a large portion of tax-exempt properties can use PILOTs to offset costs of service provision, encourage these properties to pay their fair share, and enable conversations between local government and nonprofits. Lastly, municipalities facing economic development challenges, including tax-exempt land can use CBAs to encourage needed development projects while securing benefits for residents effected by pending development. Combining these tools may also be appropriate.

Dealing with fiscal stress is not sustainable unless it is equitable. Our toolbox offers a way to address both. Each community has a different context, as does each tool. It is important to keep in mind that each of these tools is not a panacea for managing fiscal stress while keeping social and economic equity in mind, but may be a piece of the puzzle. Finding the appropriate match of tools will assist local governments to cope with fiscal stress.

Table 11. Linking Fiscal Stress & Social Equity

	Tool	Result → Fiscal Stress	Result → Equity
	Overriding Tax Cap	Increase property tax revenue.	Fund services for dependent populations.
	Land Banks & Land Trust	Grow and preserve local tax base.	Community programs and community land trusts.
	Payments in Lieu of Taxes (PILOTs)	Offset costs of service provision.	Increased community contributions from growing economic sectors.
	Community Benefits Agreements (CBAs)	Reduce burden on local government for economic development.	Concessions from developers for affected residents.

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