

Union of Nova Scotia Municipalities



# **Nova Scotia Assessment Cap Review**

**UNSM Position Paper**

**May 2011**

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# Executive Summary

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In 2005, the Province introduced the Capped Assessment Program (CAP) in an effort to protect property tax payers from sudden and dramatic increases in assessment. After five years of experience with this system, Nova Scotia municipalities and their citizens are being seriously impacted by the program in the following ways:

1. The existing Assessment Cap Program increasingly disadvantages those building homes and those buying properties as these properties are not capped in the first year. Economic development can be stifled by making new home purchases less attractive.
2. With the Cap currently set at CPI, the program has moved away from addressing sudden and dramatic assessment increases and instead results in arbitrary tax redistribution among and between capped and uncapped properties. These unintended effects are often misunderstood by taxpayers and difficult to explain or defend.
3. The existing Cap Program severely distorts the market value system which is regarded as the least regressive form of municipal tax allocation. Capping makes the overall municipal tax system more regressive, complex and inconsistent.
4. The Cap Program does not effectively assist residents on low or fixed incomes who are challenged to pay their property taxes. In fact, the current program transfers the property tax burden to home owners with lower assessed properties. This demographic often represents those on lower or fixed incomes. Other programs are available to better help this group of home owners.
5. The Cap system takes away from the core market value assessment work of the Property Valuation Services Corporation.

The UNSM urges the Provincial Government to eliminate the Assessment Cap Program in a phased manner, replacing it with other programs that offer assistance to taxpayers who are truly challenged to pay their property taxes. UNSM's recommended approach is as follows:

- **Phased elimination of the cap over minimum of 7 years**
- **Cease the practice of returning properties to market values that sell immediately and throughout the phase out**
- **Put provisions in place to control levels of tax increases through the phase out period**
- **Put provisions in place for a program that will truly assist taxpayers in need.**

The Assessment Cap and its associated concerns is a serious issue facing municipalities and the UNSM. The negative impacts on the tax structure of municipalities cannot be overstated. The long term impacts on the economy of Nova Scotia are even more alarming.

The Cap does not, by design, assist those experiencing sudden and dramatic increases in assessment and does not assist taxpayers who are unable to pay their taxes. The Cap system produces, in no logical or defensible way, winners and losers with respect to property tax burden.

# 1.0 Introduction

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In May, 2004, the Provincial Government introduced Bill 40 - *An Act to Amend the Assessment Act* - with the goal to protect Nova Scotia residents from the tax effects of dramatic increases in property assessment values. The legislation enables the Province to limit or “cap” the increase in the assessed value of residential and resource properties. The Bill was enacted to take effect on April 1, 2005.

Changes to the Act provided for a Provincial Legislative Review. This was carried out by Service Nova Scotia and Municipal Relations staff and released in March 2007. The report included an analysis and review of various cap programs in North America, particularly in the United States.

Since its inception, the cap percentage has decreased a number of times, currently set at CPI. Over the years more property types have been added to the program and changes have been made to make it easier to qualify for the cap. The move to capping at CPI may have represented a shift in the purpose of the program from addressing the tax burden of poor taxpayers to a “transparency in taxation” issue. There is a belief by some taxpayers and media that the Cap program protects the municipal taxpayer in general from significant tax increases.

It is important to note that the existing legislation does not place limits on tax rates set by municipalities in Nova Scotia. In fact, municipalities have the ability under the MGA and HRM Charter, to determine taxation using methods other than a rate per \$100 of taxable assessment.

The UNSM has expressed concerns with the Cap Program since its inception. There was never adequate analysis to demonstrate that assessment capping was in the public interest. Now, several years into the program, the impact of the program is able to be measured more accurately.

In 2009, the UNSM struck another committee to review the Cap Program. This report provides recommendations on behalf of its members. The results produced in this report represent similar conclusions to other reviews of capping programs, particularly those in the United States.

The UNSM Cap Review Committee, upon its extensive review, concludes that the existing Nova Scotia Assessment Cap Program:

1. will affect economic growth in terms of new home construction and sales of existing homes (because these properties are not capped in the first year)

2. is a significant move away from the market value system, producing significant and regressive tax burden redistribution
3. does not appropriately identify those challenged to pay their property taxes
4. is impacting Uniform Assessment, thereby shifting the financial responsibilities between units for shared costs such as education, housing and corrections
5. requires significant administrative resources on behalf of the Property Valuation Services Corporation (PVSC) that is funded through municipal taxes.

## 2.0 Guiding Principles for Municipal Property Taxation Systems

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### 2.1 Municipal Property Taxation System Guiding Principles – Developed in 2004

An effective municipal taxation system is one that follows basic principles of fairness, transparency and simplicity. A UNSM-AMA Cap Program Review Committee established in 2004 prepared the following guiding principles relating to municipal property taxation systems:

1. *No Nova Scotian should be forced from their home due to high assessment increases and the related tax burden.*
2. *Any proposed tax relief provisions should not provide a tax subsidy to the wealthy at the expense of other taxpayers.*
3. *The “market value” standard of the assessment system should not be altered.*
4. *Any proposed changes should be acceptable to the majority of municipalities in the province and should not hamper natural growth in municipal revenues*
5. *The proposed system should be simple to understand, implement and administer.*

## 2.2 Municipal Property Taxation System Guiding Principles – Developed in 2010

In 2010, as part of the current review, the UNSM-AMA Task Force proposed the following set of principles:

An effective municipal taxation distribution system should:

1. *be equitable and consistent*
2. *protect taxpayers from sudden and dramatic increases in assessment*
3. *minimize unequal shifts in tax burden, without the benefit of a means test*
4. *have a mechanism to address taxpayers in need*
5. *have a neutral or positive impact on the economy*
6. *retain market value as the primary basis for tax distribution*
7. *be logical, efficient, and predictable to citizens*
8. *support and preserve municipal autonomy, accountability and transparency.*

## 3.0 Impacts of the Current Cap Program

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In its Legislated Review of March 2007, Service NS and Municipal Relations analyzed the Cap Program up to 2007-2008. This UNSM-AMA report extended that analysis to 2010, capturing the following changes to the Program:

1. In 2008 the Cap was set at CPI (down from 10% in each of the 3 previous years).
  - 2008 assessment roll – CPI Assessment Cap set at 2.3%
  - 2009 assessment roll – CPI Assessment Cap set at 3.4%
  - 2010 assessment roll – CPI Assessment Cap set at 0%

2. In 2008-2009, property owners no longer had to apply for the cap, resulting in a dramatic number of properties added to the Cap Program.
3. In 2008-2009 mobile homes were added to the qualified properties' list.
4. In 2009-2010 several additional property categories were added including housing cooperatives, incorporated farms, and mobile home parks.

These changes to the Cap Program have resulted in many more properties eligible for the cap. Table 1 below indicates that between 2007 and 2011, the number of properties capped increased from 7% to 77%.

### 3.1 Significant Growth in the Number of Properties Capped since 2008

**Table 1: Number of Eligible Accounts for Cap Program: 2007-2011**

	2007/2008	2008/2009	2009/2010	2010/2011
Total No. Of Accounts*	466,466	483,589	488,504	492,259
No. of Eligible Accounts**	119,424	473,558	478,291	482,057
No. of Accts where market inc > CPI	Not available	312,081	435,371	452,929
No. of Accts Capped***	32,654	278,337	360,889	377,429
<b>Accts Capped as % of Total Accounts</b>	<b>7%</b>	<b>57.55%</b>	<b>73.87%</b>	<b>76.67%</b>

Source: PVSC Database

\* Taxable residential/resource accounts for all municipal units in Nova Scotia

\*\* Accounts that meet physical, market and sales criteria for the CAP

\*\*\* Excludes non-family sales, foreign owned properties

### 3.2 Important Minority of Properties Not Capped

The majority of residential/resource properties in Nova Scotia are now capped. Those properties not capped will bear more of any increase in the tax burden than if the cap was not in place. Of particular interest, in terms of the fairness of the tax system, are accounts not capped because their market value increase was below CPI (generally older, rural and lower income owners) or because of foreign ownership.

In addition to the properties outlined in Table 2, there are others in any given year taxed at values equal to their market value (effectively not capped). This includes properties sold in the past year, new construction and portion of accounts related to renovations.

**Table 2: Accounts with Assessment Increases Less than CPI or where Property is Foreign Owned**

	2008/2009	2009/2010	2010/2011
Total No. of Accounts	483,589	488,504	492,259
Total Accounts where assessment increase is less than CPI or foreign owned	161,477	42,920	29,128
<b>% of Total Accounts</b>	<b>33.4%</b>	<b>8.8%</b>	<b>5.9%</b>
CAP % for the year	2.3%	3.4%	0%

### 3.3 Capping Does Not Necessarily Mean Lower Taxes

The winners and losers of the Cap Program is determined by several factors including the market value increase of a particular property in relation to the cap percentage, other properties in the municipality, and how many years the property was in the program.

Table 3 below provides 2010 Cap Program data for the Municipality of East Hants and the Town of Mahone Bay. This data clearly dispels the common belief that capped properties automatically save on their tax bill.

Ironically, the Cap Program produced almost as many “losers” as “winners” in East Hants in 2010. It is anticipated that many of the 4,673 property owners that are paying more under a Cap Program believe they are paying less based on the fact that their taxable assessment is less than their market assessment.

Further analysis demonstrates that capped properties in East Hants assessed below 90% of market value assessment will save on their tax bill (“winners”). If the capped assessment is 90% or more of their market value, property owners will pay more under the program (“losers”). In Mahone Bay, the cut off is about 85%—a capped value of 85% or less of market assessment will result in lower property taxes.

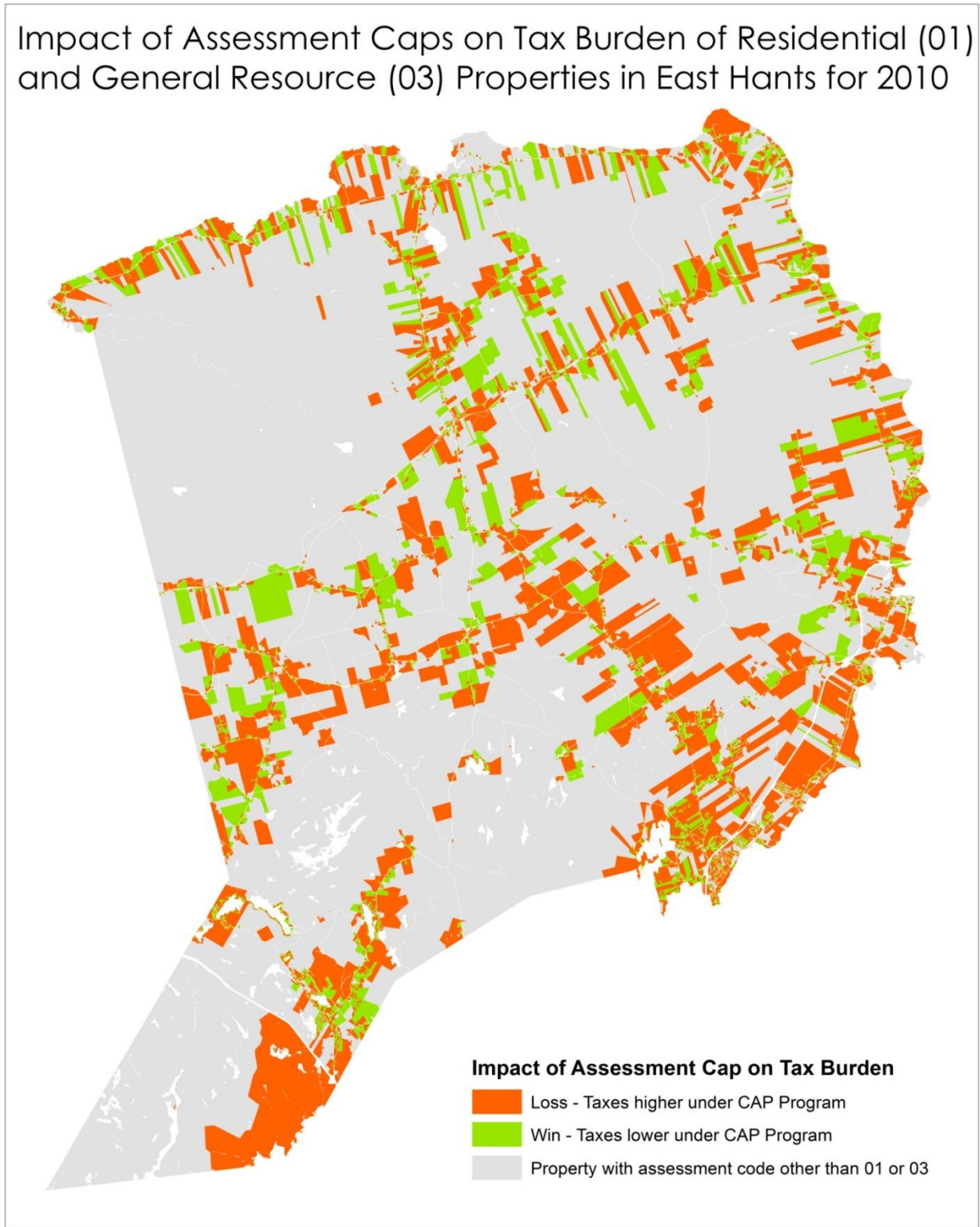
Figure 1 on page 11 demonstrates the winners and losers of the Cap Program in the Municipality of East Hants in 2010. It is a good reminder of why the impacts of the Cap are misunderstood. Of the properties capped, almost half are paying more than they would under a market assessment system.

**Table 3: Winners and Losers under Current Cap Program: Municipality of East Hants and Town of Mahone Bay**

	East Hants	%	Mahone Bay	%
<b>Total # Residential/Resource Accounts</b>	11,708	100%	596	100%
<b>Uncapped Accounts</b>	2,277	20%	176	29%
<b>Capped properties paying more under Cap Program</b>	4,673	40%	101	17%
<b>Capped properties paying Less under Cap Program</b>	4,758	40%	319	54%

Figure 1:

Impact of Assessment Caps on Tax Burden of Residential (01) and General Resource (03) Properties in East Hants for 2010



### 3.4 A Growing Percentage of Market Value is Not Taxed

The impact of the Cap Program is cumulative. Each successive year, the percentage of normal market growth, over the annual CPI figure set by the Province for the Assessment Cap, has a greater impact in terms of assessment available for municipal property tax purposes. These figures reveal that municipal assessment is being reduced proportionately more each year. As Table 4 indicates, in 2010/11, about \$7 million in potential property assessment across Nova Scotia was eliminated from access by municipalities for taxation. The size of the property tax “pie” is reduced accordingly. This pushes up the tax rate per \$100 of assessment in order to raise the same amount of revenue.

**Table 4: Market Value not Taxed Due to Cap Program**

Year	2008/2009	2009/2010	2010/2011
Market Value not being taxed (\$7,000,000)	\$3.07	\$5.12	\$6.92
% of total Residential/Resource market value	6.2%	9.5%	13.6%

It is important to note that the Cap Program does not hinder the ability of municipalities to generate tax revenue as rates can be adjusted based on the amount of revenue required. The problem is how the elimination of a substantial and growing portion of market values throws the system into upheaval and brings into question the value of continuing to pay millions of dollars to maintain a market based system.

### 3.5 Municipalities Have Cut Back Rather than Offset Cap Impacts

Prior to the introduction of the Assessment Cap Program, there was a perception that some municipalities took advantage each year of the “lift” in assessment, while appearing to leave tax rates fixed. While municipal councils strive to keep the tax rates flat from year to year, it is not fair to characterize this use of normal growth in assessment as a “tax grab”. Nova Scotia municipalities face considerable financial pressures—service cost escalations well above CPI, changes in provincial regulations, and downloading of costs from provincial and federal levels of government. Most municipal councils disclose the impact on the average tax “burden” resulting from their budget decisions. It is unfair to suggest that there is a consistent practice of grabbing revenue from increasing assessments and not disclosing the details of the annual tax rate setting process.

To analyze this issue more closely, the UNSM-AMA Cap Review Committee compared the residential tax rates of the 55 municipal units in 2009-10 to those in 2005/2006, the year the Assessment Cap Program came into effect. *This is outlined in Table 5 on page 13.* Coincident with the change in the Cap from 10% to CPI in 2008, there was a significant increase in the number of units who were reducing their rates below the 2005/2006 levels. Rather than “grabbing the lift”, even at the CPI Cap, more than 40% of units were taxing at rates lower in 2008 and 2009 than in 2005. In 2008/2009 and 2009/2010, 75% and 62% of municipal units either held or reduced their rates, demonstrating a genuine effort to balance their books without offsetting the growing impact of the Assessment Cap.

**Table 5: Percentage of Municipal Tax Rates Increasing or Decreasing Since 2005**

% of Units	Year	Year	Year
	2007/2008	2008/2009	2009/2010
Rates higher than 2005/2006	29%	25%	38%
<b>Rates lower than 2005/2006</b>	<b>38%</b>	<b>46%</b>	<b>42%</b>
No Change from 2005/2006	33%	29%	20%
CAP %	10%	2.3%	3.4%

To further demonstrate the financial restraint across the 55 Nova Scotia municipalities, Table 6 shows that the average Residential Tax Rate decreased from 2005/2006 to 2009/2010. By 2009/2010 the average rate was .7% lower than it was 4 years earlier.

**Table 6: Average Residential Tax Rates for NS Municipalities: 2005-2010**

Year	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010
Average Residential Tax Rate	\$1.441	\$1.448	\$1.429	\$1.425	\$1.431

Source: [www.gov.ns.ca](http://www.gov.ns.ca) Service Nova Scotia- Municipal Facts and Figures

By 2009, 9.5% of market value had been removed from the tax roll through capping, yet 62% of units held or reduced their tax rates. Proponents of the Cap may suggest that the program is working as intended by the Province, if units were able to reduce rates. Our review suggests that, in many cases, municipalities have maintained or reduced rates because of public expectations. These expectations are being met by short term financial decisions that may not be in the long term interest of the municipality. Eventually taxpayers will bear the long term impacts of under-resourced operations and a growing infrastructure deficit. Unfortunately, the general public does not fully understand the relationship between property assessments and municipal taxation. We acknowledge that municipalities can do more to assist taxpayers to understand the impacts they are likely to see on their tax burden as a result of the budget being considered by Councils.

To further demonstrate the impact of the Assessment Cap Program, we have estimated the tax rates that would be in place if the same amount of tax revenue was raised through market values instead of cap values. This analysis indicates that, on average, the residential property tax rate would have been about \$.09 lower by 2009/2010, without the cap. This estimate is outlined below in Table 7, using combined values for all 55 municipalities:

**Table 7: Estimated Average Tax Rate without a Cap in Place**

2009/2010 Residential/Resource assessment base without CAP in place	\$53,976,304,500
2009/2010 Residential/Resource Assessment base with Cap in place	\$48,855,163,400
Tax revenue required (actual raised)	\$490,017,289
“Simulated” tax rate per \$100 as if one Municipality	\$1.003
<b>Tax Rate to generate same revenue on uncapped assessment</b>	<b>\$.908</b>

The Municipality of East Hants demonstrates the estimated rate differential calculated above. In 2009 the residential tax rate in East Hants, based on the Cap Program, was \$.8695 per \$100. To raise the same revenue on a market based assessed value would have resulted in a rate of \$.782 (\$.0875 difference). With some basic assumptions, and based on past history, it is possible to predict future rates in East Hants under the Assessment Cap at CPI compared to rates under a Market Value system. This is outlined in Table 8:

**Table 8: Projected Tax Rates Capped vs. Market Value Assessment Systems: Municipality of East Hants**

Year	2009/2010	2014/2015	2015/2016	2016/2017
Residential Rate- Capped Base	\$.8695	\$.830	\$.822	\$.815
Residential Rate- Market value	\$.782	\$.622	\$.594	\$.568
Differential	\$.0875	\$.208	\$.228	\$.247

**Assumptions:**

- Annual Market value increase: 4%-10% (consistent with pattern over several prior years)
- Annual CPI increase: 3%
- Tax Revenue Growth required: 7%

**3.6 The Cap Program is Producing Unfair Tax Burden Shifts**

The impact on individual ratepayers depends on the capped and market values of their properties and the individual unit in which they reside. By looking at the impacts of the Assessment Cap across Nova Scotia, we can gauge the average impact on various categories of ratepayers. A spreadsheet demonstrating the general redistribution of tax burden among categories of properties is shown in Table 9.

**Table 9: General Redistribution of Tax Burden Among Categories of Properties**

2009 Data for Province in Total at 3.4% CAP							
Category		# of Accounts	Residential/	% of	CAP Assessed	% of	Ave Cost
			Resource	Tax Base	Value	Tax Base under CAP	( Savings) per unit
<b>1</b>	<b>Capped Accounts</b>						
	DU 1: Value \$1 - \$75,000 capped	77353	\$ 3,731,317,900	6.9%	\$ 3,281,739,300	6.7%	\$ (13.43)
	DU 1: Value \$75,001 - \$150,000 capped	94815	\$ 10,493,348,000	19.4%	\$ 9,134,662,000	18.7%	\$ (40.80)
	DU 1: Value \$150,001 - \$225,000 capped	60039	\$ 10,939,773,900	20.3%	\$ 9,566,026,600	19.6%	\$ (60.04)
	DU 1: Value \$225,001 - \$300,000 capped	21677	\$ 5,529,432,600	10.2%	\$ 4,877,105,200	10.0%	\$ (64.61)
	DU 1: Value > \$300,000 capped	15189	\$ 6,443,729,400	11.9%	\$ 5,701,472,600	11.7%	\$ (95.61)
	DU 0 capped	77515	\$ 1,319,804,900	2.4%	\$ 1,061,444,100	2.2%	\$ (17.60)
	DU > 1 capped	14301	\$ 2,578,926,000	4.8%	\$ 2,292,741,800	4.7%	\$ (33.01)
	Sub Total- capped	360889	\$ 41,036,332,700	76.0%	\$ 35,915,191,600	73.5%	\$ (36.58)
<b>2</b>	<b>Accounts Not Eligible</b>						
	DU 1: Value \$1 - \$75,001-non eligible	19685	\$ 628,422,500	1.2%	\$ 628,422,500	1.3%	\$ 29.69
	DU 1: Value \$75,001 - \$150,001- not eligible	5455	\$ 571,905,500	1.1%	\$ 571,905,500	1.2%	\$ 97.50
	DU 1: Value \$150,001 - \$225,001- not eligible	2407	\$ 445,952,300	0.8%	\$ 445,952,300	0.9%	\$ 172.30
	DU 1: Value \$225,001 - \$300,001- not eligible	1070	\$ 271,574,100	0.5%	\$ 271,574,100	0.6%	\$ 236.04
	DU 1: Value > \$300,001- not eligible	673	\$ 305,865,300	0.6%	\$ 305,865,300	0.6%	\$ 422.67
	DU 0-not eligible	17363	\$ 637,488,400	1.2%	\$ 637,488,400	1.3%	\$ 34.15
	DU > 1- not eligible	6480	\$ 3,950,900,500	7.3%	\$ 3,950,900,500	8.1%	\$ 567.03
	Sub Total- not eligible	53133	\$ 6,812,108,600	12.6%	\$ 6,812,108,600	13.9%	\$ 119.23
<b>3</b>	<b>Accounts eligible but Not Capped</b>						
	DU 1: Value \$1 - \$75,002-not capped	10276	\$ 489,386,200	0.9%	\$ 489,386,200	1.0%	\$ 44.29
	DU 1: Value \$75,001 - \$150,002-not capped	10585	\$ 1,155,981,100	2.1%	\$ 1,155,981,100	2.4%	\$ 101.56
	DU 1: Value \$150,001 - \$225,002- not capped	6000	\$ 1,098,666,900	2.0%	\$ 1,098,666,900	2.2%	\$ 170.29
	DU 1: Value \$225,001 - \$300,002- not capped	2465	\$ 630,626,400	1.2%	\$ 630,626,400	1.3%	\$ 237.92
	DU 1: Value > \$300,002- not capped	2303	\$ 1,037,403,500	1.9%	\$ 1,037,403,500	2.1%	\$ 418.93
	DU 0- not capped	39968	\$ 1,161,783,500	2.2%	\$ 1,161,783,500	2.4%	\$ 27.03
	DU > 1- not capped	2885	\$ 554,015,600	1.0%	\$ 554,015,600	1.1%	\$ 178.59
	Sub Total- eligible but not capped	74482	\$ 6,127,863,200	11.4%	\$ 6,127,863,200	12.5%	\$ 76.51
	<b>Total</b>	<b>488504</b>	<b>\$ 53,976,304,500</b>	<b>100.0%</b>	<b>\$ 48,855,163,400</b>	<b>100.0%</b>	
	DU= Dwelling Unit						

Properties are broken into 3 broad categories for this analysis:

- Properties Eligible for the Cap and are Capped:** This includes all properties that meet the basic qualifications such as residential/non improved resource accounts, certain multiple unit accounts etc, that are capped.
- Properties Eligible for the Cap and are not Capped:** This includes all properties that meet the basic qualifications as noted above but that are not capped because their market value increase was below the cap threshold or because there was an arms' length sale of the property in that year or because of foreign ownership.
- Properties that are not eligible for the Cap** which includes improved resource land (eg farm property), business component of residential properties, etc.

Note: The eligible but not capped category (Category 2) includes all of the following:

- Properties that have sold in the prior year and that have been automatically returned to market value as a result.
- Properties that are owned by non Nova Scotian's as measured by the mailing address on the account.

- Properties whose value increase falls below the Cap percentage.

Since the inception of the Assessment Cap Program, the following trends are demonstrated in Table 9:

1. *The Category 1 Capped Properties are paying less tax than they would under a market system in every value category.*
2. *Within the Capped Properties, those in the higher value groups are saving progressively more than the lower value properties.*
3. *The other two broad categories - those that are not eligible and those that are eligible but are not capped, are paying more taxes than they would without the Cap Program.*

### 3.6.1 Cap Examples from Town of Kentville

Table 10 below provides a demonstration from the Town of Kentville of how homes benefit disproportionately from capping. Note the significant difference between market and capped values.

**Table 10: Market and Capped Values of Residential Properties – Town of Kentville**

<b>Market Value 2010 Tax Year</b>	<b>Capped Value</b>	<b>Assessment Difference (\$)</b>	<b>Assessment Difference (%)</b>
\$ 86,600	\$ 79,900	\$ 6,700	7.7%
\$127,600	\$ 118,100	\$ 9,500	7.4%
\$482,400	\$ 258,300	\$224,100	46.5%
\$551,500	\$ 375,100	\$176,400	32.0%

Table 10 demonstrates that two higher value homes retained by the owner since the start of the Cap Program are being charged significantly less in property taxes than a similar, recently purchased, home next door in the same community.

### 3.6.2 Cap Examples from Cape Breton Regional Municipality (CBRM)

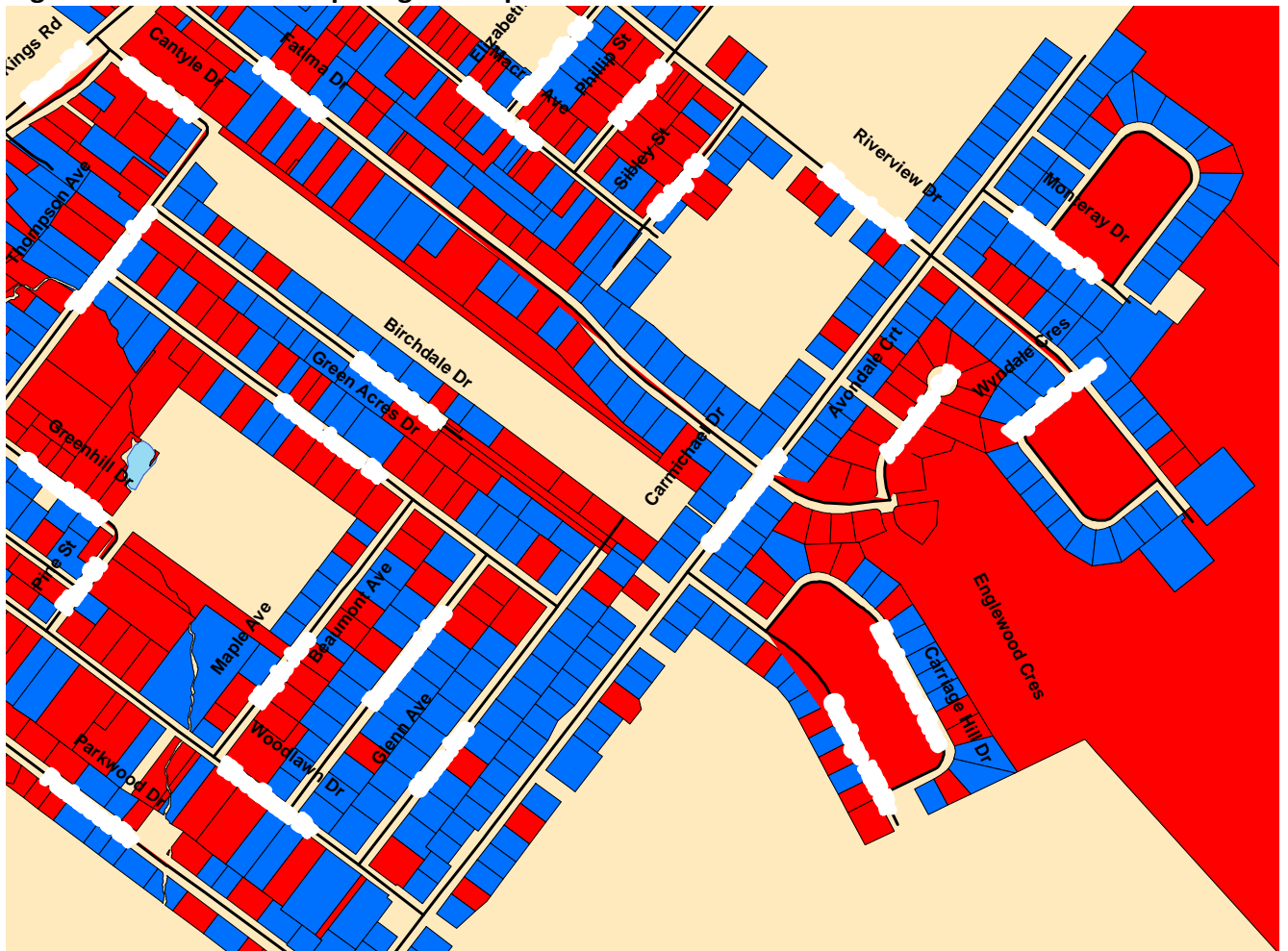
Figures 2 and 3 prepared by CBRM offers a stark pictorial view of “winners and losers” in the Assessment Cap program. This comparison of two CBRM communities, confirms the “Category 1” results in the province-wide spreadsheet analysis – those with more expensive homes are reaping the benefits of the Cap Program; those living in lower valued homes are paying more than they would without the cap. This seems to create the opposite effect to the original intension of the Cap Program, to protect lower income residents from municipal tax increases over time.

**Figure 2: Assessment Cap Program Impacts in CBRM – Whitney Pier Area**



*Blue indicates the properties benefiting from the CAP Program, Red indicates those not receiving a benefit (Whitney Pier is a lower income area)*

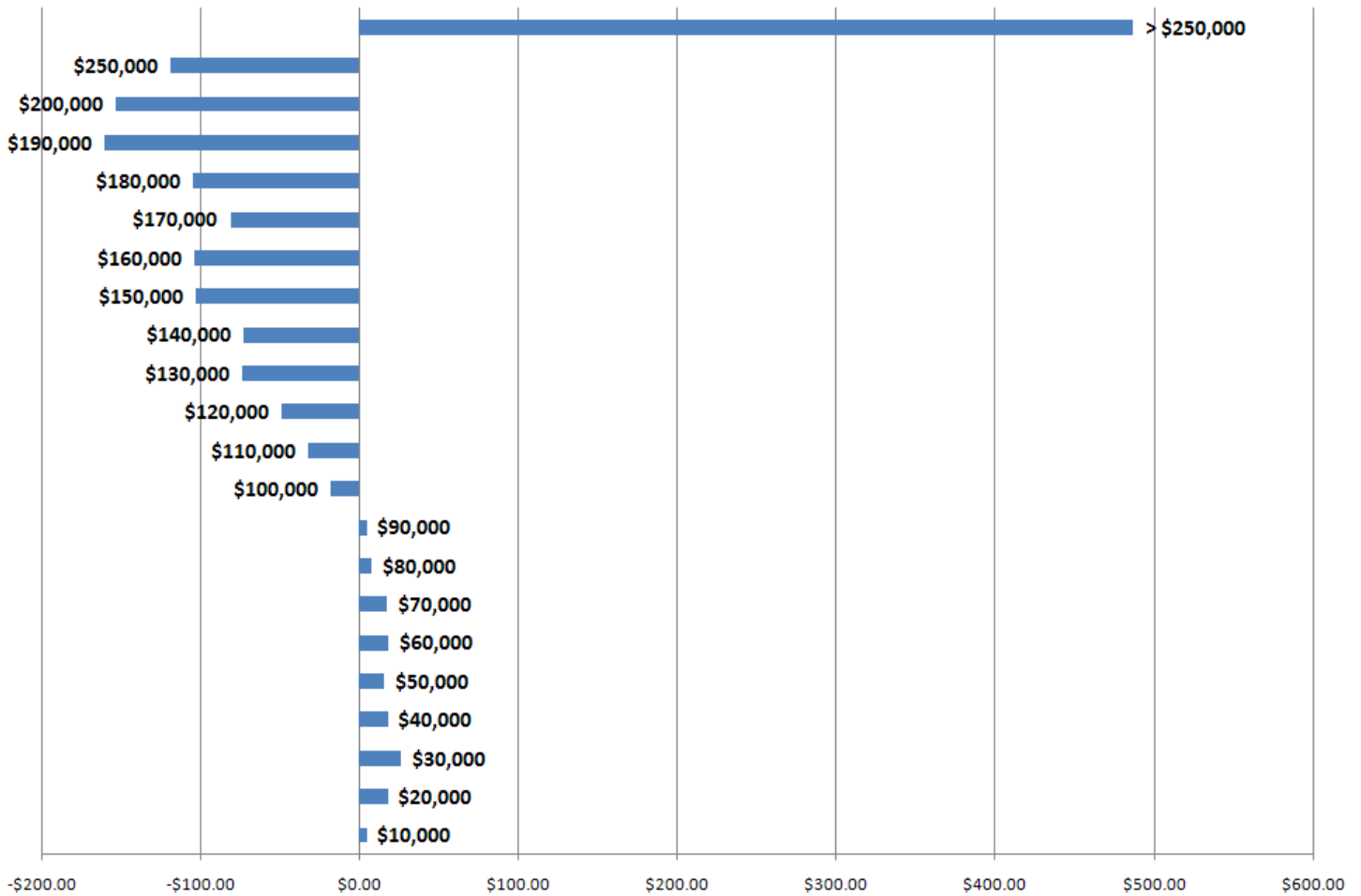
**Figure 3: : Assessment Cap Program Impacts in CBRM – Carmichael Drive Area**



**Blue highlights properties benefiting from the cap; red indicates properties not receiving a benefit (Carmichael Drive is a more affluent area)**

Figure 4 on the following page represents a bar chart demonstrating the impact of the cap on the tax bills of properties within CBRM. Properties range in value from \$10,000 to \$250,000 and above. Those CBRM properties valued at more than \$100,000 are paying less property tax, ranging from \$10 to \$200 annually. Those valued at less than \$100,000 are paying more under the Cap Program.

**Figure 4: Impact of Cap on Property Tax Bills - CBRM**



**Notes on Figure 4:**

- Those with assessments under \$100,000 are paying more tax; those over \$100,000 are paying significantly less in taxes.
- There is an anomaly with accounts over \$250,000. This is likely due to the sale of properties in this range. If a property is sold, the cap is removed from the property. This does nothing to promote property sales in the CBRM if people know that they will receive a significant increase in their tax bill.

### 3.6.1 Cap Examples from Halifax Regional Municipality (HRM)

The potential for confusion and chaos as the Assessment Cap Program continues has also been analyzed by HRM.

**Figure 5: Impact of Cap on Sold Homes in HRM (Similar Properties Located in Same Neighbourhood)**

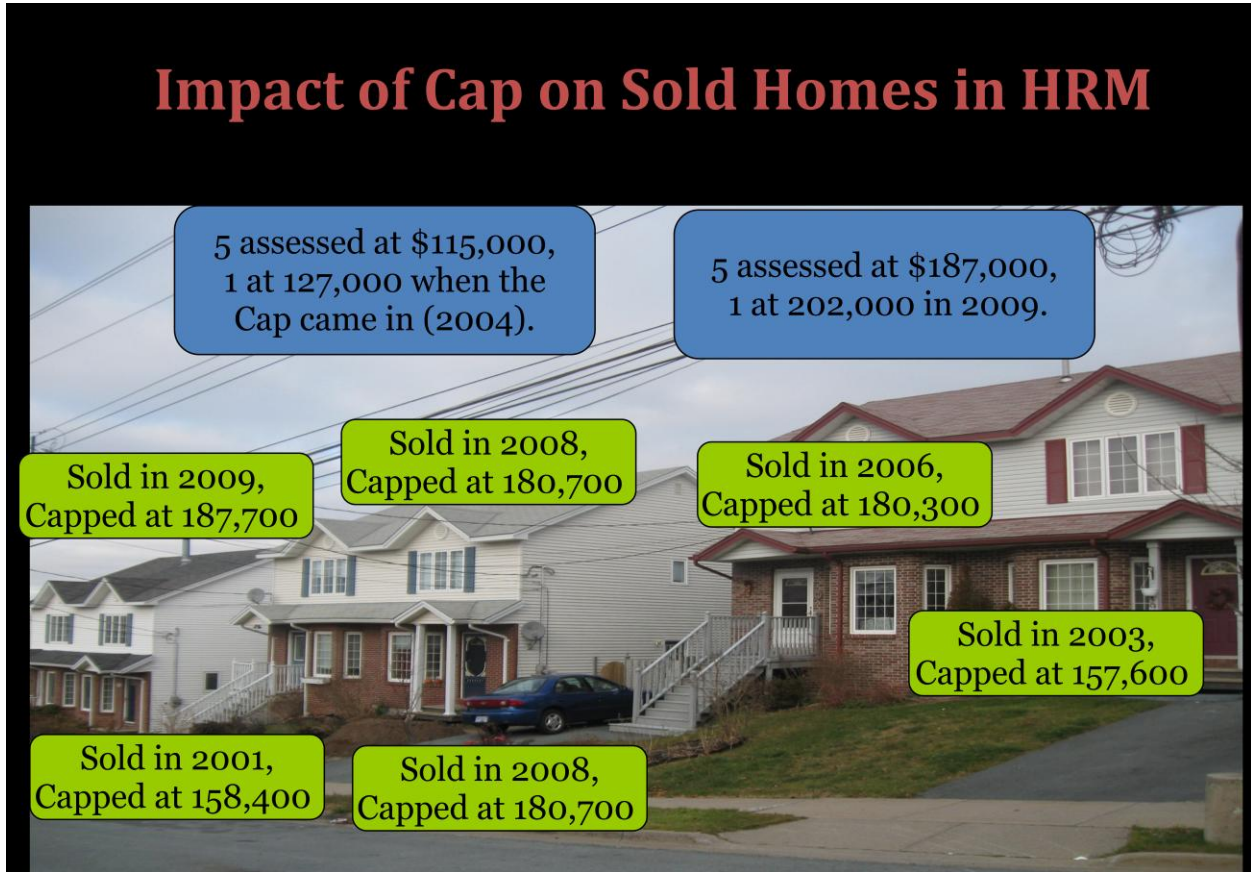
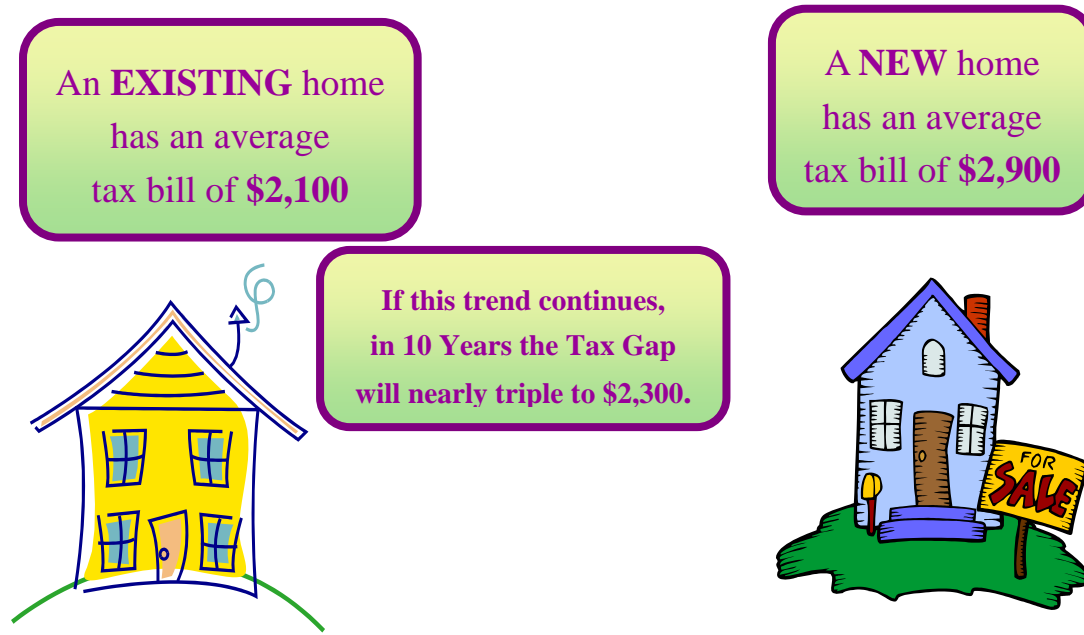


Figure 6: Impact of Cap on Sold Homes in HRM (Tax Gap between Existing and New Homes)



## 4.0 Why the Current Cap Program Should Change?

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### 4.1 Cap is Negatively Impacting Economic Development

Young families who normally move from smaller to larger homes as their family needs change, will now face a move from capped to uncapped properties. The consequences of a significant change in property taxation, at a time when money is normally tight, may stop such movement.

The same issue will be faced by potential new home builders who will see their properties added to the assessment roll at full market value. The residential tax rate they face will be higher than what they would have faced under a normal Market Value tax system. The issue becomes increasingly acute as the years of capping pass and the required residential tax rate rises.

Demonstration of this issue is made clear by projecting out a few years. Such analysis was done using patterns from prior years in the Municipality of East Hants. It was determined that two similar houses, located side by side, could have an 80% difference in tax burden by 2016. For such a high growth area, and others like it, this is certainly an issue that must be addressed. This East Hants study is summarized in Table 11, with the key differences highlighted in yellow:



**Table 12: Tax Comparison A - Market Value System**

	Year	
	2009	2016
New Home Built 2009		
Taxable Assessed Value	\$230,000	\$407,000
Tax Rate per \$100	.782	.568
<b>General Taxes per year</b>	<b>\$1,798.60</b>	<b>\$2311.76</b>
New Home Built 2016	NA	
Taxable Assessed Value		\$407,000
Tax Rate per \$100		.568
<b>General Taxes per year</b>		<b>\$2311.76</b>

**Table 13: Tax Comparison B - Assessment CAP Program**

	Year	
	2009	2016
New Home Built 2010		
Taxable Assessed Value	\$230,000	\$274,000
Tax Rate per \$100	.869	.815
<b>General Taxes per year</b>	<b>\$1998.70</b>	<b>\$2,233.10</b>
New Home Built 2016	NA	
Taxable Assessed Value		\$407,000
Tax Rate per \$100		.815
<b>General Taxes per year</b>		<b>\$3,317.05</b>

The young family who builds in 2016 however gets an assessment at full market value and a tax rate per \$100 that is 43% higher than it would have been under a market system and a tax bill that is 49% higher than their neighbor who built the identical home, only a few years earlier. Project the model out another five years and the potential differential in taxes paid for similar properties is even greater.

Consider also the situation where an older retired couple may be wishing to downsize and sell their family home. It is quite conceivable that they will face a larger tax bill by selling their home and moving into a smaller home on which their taxes will be based on the market value.

## 4.2 The Cap is Harming the Market Value Assessment System

Perhaps the strongest argument against a market value system is that the value of one's property is not a good indication of one's ability to pay. The cases that are perhaps most frequently referenced are older people who may have a significantly valued home but are living on a retirement income. If this property happens to be in a location where market values are increasing rapidly, the taxes may rise on these properties disproportionately to others in the

same Municipality. In some cases, property taxes can become such a burden that the owner can no longer afford to remain in their home.

The use of market values, however, is a long accepted methodology for the levy of municipal taxes and it is comparatively understandable and defensible. It is accepted and used worldwide as a basis for municipal property taxation. Artificially altering the taxable value of a home to respond to an ability to pay concern is problematic, as the Nova Scotia experience indicates. The tinkered system becomes impossible to explain or defend. Without actually measuring ability to pay, values are arbitrary and there is no way to accurately know whether you are helping or harming those who need assistance.

Moving away from the predictable and stable market valuation systems creates chaos in the taxation system in a number of ways. The impact compounds in successive years. Several important trends are developing under the current Assessment Cap Program. These are outlined below.

1. On a province-wide basis higher value properties save more tax dollars while lower value properties save fewer dollars. Analysis of data for the Municipality of Chester, an area where the value of shorefront properties demonstrates that the lower value properties are already paying more than they would under a market system. This is outlined in Table 14:

**Table 14: Impacts of Cap Program on Capped and Non-Capped Properties: Municipality of Chester**

2009 Data for Chester						
Category	# of Accounts	Residential/ Resource Assessed Value	% of Tax Base	CAP Assessed Value	% of Tax Base under CAP	Ave Cost ( Savings) per unit
DU 1: Value \$1 - \$75,000 capped	1,155	\$57,555,900	4.3%	\$ 49,652,800	4.4%	\$ 3.11
DU 1: Value \$1 - \$75,000-non eligible	9	\$194,400	0.0%	\$ 194,400	0.0%	\$ 19.44
DU 1: Value \$1 - \$75,000-not capped	340	\$12,182,400	0.9%	\$ 12,182,400	1.1%	\$ 32.25
DU 1: Value \$75,001 - \$150,000 capped	1,882	\$205,150,400	15.5%	\$ 175,397,400	15.5%	\$ 1.67
DU 1: Value \$75,001 - \$150,000- not eligible	1	\$96,000	0.0%	\$ 96,000	0.0%	\$ 86.40
DU 1: Value \$75,001 - \$150,000-not capped	223	\$24,325,300	1.8%	\$ 24,325,300	2.1%	\$ 98.17
DU 1: Value \$150,001 - \$225,000 capped	1,000	\$182,569,000	13.8%	\$ 150,751,900	13.3%	\$ (29.77)
DU 1: Value \$150,001 - \$225,000- not elig	0	\$0	0.0%	\$ -	0.0%	
DU 1: Value \$150,001 - \$225,000- not capped	137	\$25,495,400	1.9%	\$ 25,495,400	2.2%	\$ 167.49
DU 1: Value \$225,001 - \$300,000 capped	390	\$99,623,200	7.5%	\$ 80,702,300	7.1%	\$ (66.04)
DU 1: Value \$225,001 - \$300,000- not elig	1	\$245,700	0.0%	\$ 245,700	0.0%	\$ 221.13
DU 1: Value \$225,001 - \$300,000- not capped	104	\$26,478,400	2.0%	\$ 26,478,400	2.3%	\$ 229.14
DU 1: Value > \$300,000 capped	460	\$255,124,000	19.2%	\$ 189,356,200	16.7%	\$(372.98)
DU 1: Value > \$300,000-not eligible	2	\$1,112,500	0.1%	\$ 1,112,500	0.1%	\$ 500.63
DU 1: Value > \$300,000- not capped	174	\$124,537,900	9.4%	\$ 124,537,900	11.0%	\$ 644.16
DU 0 capped	2,449	\$82,457,800	6.2%	\$ 61,168,800	5.4%	\$ (22.72)
DU 0-not eligible	128	\$9,857,200	0.7%	\$ 9,857,200	0.9%	\$ 69.31
DU 0- not capped	1,429	\$84,082,400	6.3%	\$ 84,082,400	7.4%	\$ 52.96
DU > 1 capped	221	\$76,189,700	5.7%	\$ 58,635,000	5.2%	\$(174.27)
DU >1-not eligible	34	\$17,279,900	1.3%	\$ 17,279,900	1.5%	\$ 457.41
DU >1- not capped	59	\$41,674,500	3.1%	\$ 41,674,500	3.7%	\$ 635.71
	10,198	1,326,232,000		\$ 1,133,226,400		
Tax Rates:						
CAP Program in Place( per \$100)	\$ 0.61					Sectors Paying more per unit
No CAP program( per \$100)	\$ 0.52					Sectors Paying less per unit

Municipality of Chester properties in the \$1-\$75,000 capped category are already paying, on average, an additional \$3.11 per property. They constitute 4.4% of the residential tax base in the Capped value system. At the same time 460 capped properties in the “Greater than \$300,000” category saved an average of \$372.98. These properties constitute 16.7% of the residential tax base under the capped program. Under a market system these accounts would have constituted 19.2% of the residential tax base. This shifting of tax burden in the Municipality of Chester will continue to expand if the existing Cap Program stays in place, with the lower value capped homes paying more so the higher value capped homes will pay less.

Generally speaking, taxpayers in the higher value homes embrace the Assessment Cap Program because they save money. Even the lower value properties to this point accept the Cap Program because many of them are still saving, albeit much less in proportion. There will reach a point however where the lower valued properties begin to be penalized. The municipality still has to levy the same level of taxation overall so someone has to pay more so others can pay less. As the tax rate rises, the dollar spread between the market value and the capped value in the high value homes becomes much larger than the spread on the lower value home. The lower value homes begin to pay more than they would have under the market system.

2. It is becoming increasingly difficult for municipalities and real estate professionals to explain to new home buyers how their tax bill is fair compared to their capped neighbours, or why their new tax bill is much higher than those paid by the previous owner.
3. Non-capped properties, which are now a minority of accounts, are picking up more and more of the tax burden as the tax rate differential increases. In particular:
  - a. Farming corporations are not capped and are paying an increased burden
  - b. Larger apartment buildings are not capped and also suffer the same fate. A review of the tax burden on a 5 unit apartment building in the Municipality of East Hants shows that the property was paying \$295 per year more in 2009 than they would under a Market Value system. This equates to an extra \$59 for each apartment.
  - c. Properties owned by non Nova Scotian’s were not intended to benefit from capping. This has been very challenging to administer as the only verification mechanism available to PVSC is the address of the owner. Some foreign owners have learned to use the address of their solicitor or a NS family member to qualify for the CAP.
  - d. Properties having an increase in market value less than CPI in any given year are effectively not Capped.

### **4.3 The Program is Not Assisting Poorer Taxpayers**

This report has identified situations, like that in the Whitney Pier area of CBRM, where low income taxpayers are not benefiting at all from the Assessment CAP Program. While it was introduced initially to assist seniors and others whose homes were subject to rapid property tax increases because of rising assessments, it has evolved into a Program that benefits the wealthy at the expense of those least able to afford higher taxes. Permanently altering the value of a property for tax purposes, as is done under the Assessment CAP Program, also means that any taxes that would have been levied based on market value are altered forever. It is a permanent tax forgiveness system rather than a tax deferral program, and currently operates without taking into account the ability to pay of the ratepayers receiving the benefit, sometimes with “rich get richer” consequences.

In order to treat all taxpayers fairly it is imperative that there be a means test to determine which category a particular taxpayer may lie. Many municipalities in Nova Scotia have used a simple means test (usually a copy of a recent Income Tax Form) for years to determine eligibility for low income property tax reductions. This approach is far more sensitive to local conditions and responsive to need than is a broad brush approach like the Assessment CAP Program. It allows an informed and reasoned decision to be made by the taxing authority itself.

### **4.4 The Program is Costly to Administer for PVSC and Municipalities**

An Assessment Cap Program report prepared for the UNSM by Deloitte in February 2007 identified significant costs incurred by PVSC to administer the Cap Program. The costs incurred for the Cap Program since that time are difficult to measure as they are not tracked specifically. It is clear that much duplication of effort is evident in maintaining two sets of values, answering taxpayer questions about the program and administering the numerous changes that have been made to the program.

The cost does not stop at the PVSC organization. Municipal units spend time taking calls from taxpayers and dealing with the PVSC in resolving issues resulting from the Cap Program. These calls are increasing related to homes that sell in arm’s length transactions and property owners who are excluded from the Cap program.

As has been the case from the beginning of the Cap Program all property continues to be assessed using the market value standard provided by the Assessment Act. As the vast majority of properties are now capped, most are also given a “Capped value”. The work associated with doing this is significant. PVSC staff must concern themselves with a variety of issues unique to the administration of the Cap Program including:

1. Is the property Nova Scotian owned? Some property owners ineligible for the Cap have found ways to include themselves by having their tax bills sent to a Nova Scotia address (solicitor/family member). It is very difficult for the PVSC to ensure the capped property is not “foreign owned”.

2. Has the property changed hands? If so, has the cap been removed and the property returned to market value?
3. Has a property which qualifies for the cap undergone renovations? If so, these should be excluded from the Cap for the initial year.
4. Is new construction occupied at the time the Assessment Roll and Cap is filed?
5. If the property has a new multiple unit structure, does it qualify?

All the above issues compound if PVSC has to go back to a prior year to adjust values.

## **5.0 Position - Phase Out Cap Over Seven Years, Gradually Reducing Cap Value Impacts**

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The UNSM has considered whether the Cap program should be retained in a modified form. Given the significant issues, in terms of the fairness, equity and transparency of the municipal property tax system, the conclusion is that the Cap Program should be eliminated in favor of a broader low income property tax relief system. Elimination of the Cap program should be phased out over a period of time that does not cause tax burden shock to home owners.

It is understood that phasing out the Cap Program will take a number of years. The UNSM believes that certain steps must be taken in conjunction with a phase-out to limit the devastating impact the program is having now on home buyers.

Any phase out plan must take into account the ability of the PVSC to undertake the required calculations without incurring further programming or administrative costs. Our first option would use a period of seven years, during which time other changes would be made to address low income tax payer concerns. The proposed methodology involves a gradual narrowing of the spread between the market value and the capped value of the prior year. The narrowing could be achieved by adding a percentage of the difference between the current year market value and the prior year cap value. The proposed seven year phase out schedule is outlined below in Table 15.

**Table 15: Proposed Cap Phase-Out Schedule**

<b>Year 1</b>	taxable assessment from prior year+15% of the difference between current year market and prior year taxable assessment
<b>Year 2</b>	taxable assessment from prior year+30% of the difference between current year market and prior year taxable assessment
<b>Year 3</b>	taxable assessment from prior year+45% of the difference between current year market and prior year taxable assessment
<b>Year 4</b>	taxable assessment from prior year+60% of the difference between current year market and prior year taxable assessment
<b>Year 5</b>	taxable assessment from prior year+75% of the difference between current year market and prior year taxable assessment
<b>Year 6</b>	taxable assessment from prior year+90% of the difference between current year market and prior year taxable assessment
<b>Year 7</b>	return to full market

**Table 16: Example of Phase Out, Reducing Cap Value Impacts**

	<b>Capped value</b>	<b>Market Value (assumes 6% inc per yr)</b>	<b>Taxable value</b>
<b>2010/2011</b>	\$213,000	\$235,000	
<b>2011/2012</b>		\$249,100	\$218,415
<b>2012/2013</b>		\$264,046	\$228,314
<b>2013/2014</b>		\$279,888	\$243,099
<b>2014/2015</b>		\$296,682	\$263,209
<b>2015/2016</b>		\$314,483	\$289,112
<b>2016/2017</b>		\$333,352	\$321,317
<b>2017/2018</b>		\$353,353	\$353,353

### Alternative Phase-out Methodology

An alternative to a phase-out of the cap would be to use the prior year's taxable value as the bench mark each year. This system would work better for PVSC's computer system. The narrowing of the gap would be achieved by adding a percentage of the difference between the current year market value and the prior year taxable value, until full market value is restored.

- Year1 - 15%
- Year 2 - 30%
- Year 3 - 45%
- Year 4 - 60%
- Year 5 - 75%
- Year 6 - 90%
- Year 7 - back to full market

**Table 17: Example of Reconciling Market and Prior Year Values**

	<b>Capped value</b>	<b>Market Value (assumes 6% inc per yr)</b>	<b>Taxable value</b>
<b>2010/2011</b>	\$213,000	\$235,000	
<b>2011/2012</b>		\$249,100	\$218,415
<b>2012/2013</b>		\$264,046	\$232,104
<b>2013/2014</b>		\$279,888	\$253,606
<b>2014/2015</b>		\$296,682	\$279,451
<b>2015/2016</b>		\$314,483	\$305,725
<b>2016/2017</b>		\$333,352	\$330,589
<b>2017/2018</b>		\$353,353	\$353,353

## **Taxpayer Protection During Phase-out**

The UNSM understands that taxpayers and the Province may be concerned about what happens with tax rates during the phase out period. The UNSM is confident that municipalities are responsible and respectful of taxpayers and will not take the opportunity to keep rates the same solely for the purpose of grabbing tax revenue.

The importance of eliminating the Cap in this case outweighs any concerns units might have with provisions that might be imposed to “protect” taxpayers from unreasonable tax increases. The UNSM is prepared to discuss particulars of adopting provisions during the phase out period such that the average tax bill in a given municipality will not exceed a reasonable percentage. Some loss of autonomy during the phase out period would be a small price to pay for elimination of a program that has a real risk of damaging the economic stability of the Province.

There would have to be provisions to exclude incremental expenses that are outside of the control of municipalities (provincial costs paid by municipalities) and a mechanism for Ministerial intervention should a municipality find themselves unable to comply with the burden increase so prescribed.

## **6.0 Helping Low Income Taxpayers More Effectively**

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The UNSM Review that has led to this report recognizes the need for developing a broader, more inclusive and responsive low income tax relief program in concert with the desired phase out of the Assessment Cap Program. We have considered several possible approaches:

## 1. Tax Forgiveness

Municipal governments in Nova Scotia would not support any program which would offer a permanent forgiveness of municipal property taxes. Such programs are usually based on market value increases that will eventually be realized by the property owner (or their heirs). From our review of this issue, tax exemptions or deferral programs would be preferable, based on need as measured by an income test.

## 2. Tax Deferral

There are many examples of tax deferral programs across Canada and the United States, including the program established by Halifax Regional Municipality. Section 70 of the MGA enables municipalities to create a deferral program as a mechanism for property tax relief.

Taxpayers often do not utilize deferral programs for fear of burdening their heirs with a significant tax bill. The City of Thunder Bay, for example, only has ten participants in the tax deferral program. There also has to be limits on the amount of taxes deferred so that property owners do not find their properties subject to liens in excess of their total value.

In British Columbia, the tax deferral program is an actual loan program that is offered by the Provincial Government. The Province pays the municipal tax bill on behalf of qualifying residents and holds a lien on the property for amounts so “loaned”. This program has merit in the eyes of the municipalities who avoid the risk of reduced cash flow from substantial deferral.

Tax deferral programs could be another tool used to keep people in their homes. The minimum provision could be mandated while leaving the decision of whether to participate up to the property owner. Some units offer both partial and complete deferral programs with the full deferral program having income cutoff criteria that is higher than for a partial deferral. Partial deferrals may be limited to increases over prior year’s tax levels.

Based on research in Canada, some common considerations in full deferral policies include:

- All owners must qualify
- Deferral not available on arrears – account must be up to date to apply
- Minimum period of ownership (1 yr is common)
- Must be a principle residence, not a seasonal or second property
- Owner must have specified equity in the property – e.g. 25%
- Deferred amount cannot exceed certain percentage of property assessed value e.g. 75%
- Annual application
- Available to seniors and disabled only? The working poor?
- Only properties over a certain assessed value are eligible
- Deferral limited to tax bill increase over prior year - e.g. 10% or \$100
- Interest rate on amounts deferred?
- Deferral transferable on death? Only to spouse?

Our UNSM-AMA Review recommends focusing on a home owner's tax burden rather than the value of the home. It is the tax burden in relation to one's ability to pay that is the real issue. If the intent is to focus on owners who have experienced dramatic increases, that increase should focus on the tax burden side. If a dramatic increase has occurred (e.g. more than 15% increase in tax burden), look at resident's ability to pay.

### **3. Tax Exemptions**

Section 69 of the MGA enables a municipality to provide low income tax exemptions by way of municipal policy. While a number of municipalities provide tax exemptions, levels of exemption vary. In some cases, the existing policy may not go far enough to provide adequate relief for low income families. In some units the qualification for the program is based not just on income but on income dependent on the number of people (parents and dependent children) who live in the house. Exemptions also vary in some units with the level of service received by a property and the amount of the tax bill. Most units use the Statistics Canada Low Income Cut-off measure as the primary way of determining need of property tax relief.

There is opportunity to enhance the exemptions given but municipalities believe they should continue to have discretion in the qualification criteria and amounts of tax exempted. A balance between uniform minimum exemptions and opportunity for enhancement by individual municipalities could be achieved with consultation and follow up to this report. This would include a review of uniform levels of income and adjustments for number of dependents, and determination of minimum exemption levels, e.g., 20% of the average tax bill for that unit.

An improved tax exemption program, with minimums agreed to jointly by the Province and UNSM representatives, is the best near term option for improving the response of Nova Scotia municipalities to issues of low income tax relief.

## **7.0 Conclusion**

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The issues surrounding the Assessment Cap Program are technical in nature. It is not an easy issue to give simple explanations as to why the program is a threat to the municipal tax system and the economic well-being of the Province of Nova Scotia. It is the responsibility of the political leaders of this Province to ensure they fully understand all the consequences of this program and to make decisions that are in the best interest of all residents and the economic health of the Province.

Due to the technical nature of the program and its impacts, there is no benefit to asking members of the public whether they support the current program. It is clear that most do not understand the true impact on their tax bill and no doubt many feel it is saving them money, when in fact it may be costing them more.

Municipal administrators and elected officials certainly know how much chaos is being created in the Province and the increasing impact the program will have as the years progress. It will be increasingly difficult to reverse if something is not done immediately.

Regrettably, it is seemingly easy to dismiss the dire warnings because a large percentage of the public seem to like the Cap Program. Repeatedly we hear that the public believes that the assessment cap is saving them money and that the program is controlling the level of taxation that municipalities are permitted to approve. This report has clearly demonstrated that a property owner does not save on their tax bill just because they are capped. There is no doubt, based on the experiences of municipalities, that the public does not have an adequate understanding of the impacts. Seeing two values on an assessment notice leads many (perhaps most) to conclude that they must be saving if they are taxed on the lower amount. What taxpayers are not taking into account is that the tax rate would be lower, to raise the same amount of revenue, if the market values were used. It is also false to say the Cap Program controls the levels of overall taxation. Analysis clearly shows that tax rates are well above what they would be if the market values were used in municipal taxation systems.

The Assessment Cap Program was introduced in an effort to protect taxpayers from sudden and dramatic assessment increases. While the original program may have served the purpose to some extent, the impacts clearly moved away from the intended purpose when the Cap levels were reduced to CPI. Since that change the program has accomplished a redistribution of tax burden. There are clearly identifiable winners and losers in this program but no indication that it has saved property owners from losing their properties by avoiding rapidly increasing tax burdens.

The obvious issue with the Assessment Cap Program is that the redistribution of tax burden results in tax bills that are neither easily explained nor justifiable. Despite its faults, at least a market based assessment system is principled and explainable.

The most serious impact of redistribution is felt by people buying or building new homes. When a home is sold the cap is removed from the property and the tax burden can increase dramatically. Next door neighbors living in basically identical homes may face tax bills that are hundreds of dollars different. When new homes are built they are taxed at full market value and face tax rates well above what they would be in a market based system. In comparison to a similar home which may have been built only a few years earlier, they will pay significantly more tax and that gap will never be bridged. There appears a legitimate reason to be concerned that such inequities in a tax system may well open municipalities to legal challenges.

In the next few years it is an obvious conclusion that taxpayers will slow or stop buying or building new homes, opting instead to stay in their current homes to avoid unmanageable increases in their tax burden. Market values most certainly will drop as a result.

There are solutions for taxpayers who cannot pay their taxes. Most municipalities have had tax assistance programs for years. Enhancing those programs is very much a viable alternative to the chaos being caused by an assessment cap.

Reversing the impact of the Cap Program will not be easy and will get increasingly difficult as the years progress. The municipal level of government was given considerable autonomy in the new Municipal Government Act and has an interest in preserving that autonomy that was so rightly given. There is little question that the local level of government is the most responsible to the taxpayer. The assessment cap both reduces the autonomy in the MGA and puts every municipality in the position of being less able to be accountable.

The UNSM and all its member units are open to full and frank discussion of the contents of this report and the concurrent findings of Service Nova Scotia and Municipal Relations. Together we must find a solution to the serious problems resulting from the current Assessment Cap Program—our economic health depends on it.