

Selectmen's Committee on Senior Tax Policy
Final Report of the Committee

Final Report of the Selectmen's Committee on Senior Tax Policy
October 9, 2017

Executive Summary

The Selectmen's Committee on Senior Tax Policy was established by the Board of Selectmen in January 2017 in response to concern about the impact of property taxes on low- and moderate-income seniors. In particular there were concerns about the impact expected property tax overrides will have on seniors and the growing number of Brookline senior homeowners who no longer qualify for the Massachusetts Circuit Breaker Income Tax Credit no matter how low their income.

The work of the committee led it to file three Warrant Articles for review and acceptance at the November 2017 Special Town Meeting:

1. A proposal to change the interest rate on deferred real property taxes from a fixed rate of five percent to the one-year average rate on 10-year Constant Maturity Treasury Notes. This rate will reset annually and will apply to all deferrals issued in the relevant fiscal year.
2. A proposal to authorize the Board of Selectmen to petition the state legislature to increase the maximum qualifying gross income amount for purposes of M.G.L. Chapter 59, Section 5 clause Forty-First A, expanding eligibility for the Senior Tax Deferral program.
3. To see if the Town will vote to accept the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, establishing a taxation aid committee and fund that would provide assistance to elderly and disabled taxpayers.

The Committee makes the following additional recommendations, to provide assistance to low- and moderate-income senior property owners:

1. An effort be established (voluntarily) to work with seniors and existing organizations that serve seniors to:
 - Make seniors aware of existing and new programs offered by Brookline and local financial institutions that may alleviate or mitigate their property tax burden.
 - Work with seniors to increase familiarity with financial products offered by the financial institutions that may help them meet their tax liabilities.
 - Work with financial institutions to make them aware of the needs and concerns of senior citizens so that such financial institutions may be better able to serve the needs of seniors.
2. That the Board of Selectmen increase the number of Senior Tax Work Off slots, assuming adequate supervision and work are available to ensure seniors in the program are providing value to the Town.

3. That the Town explore providing relief from the high cost of housing in Brookline to low- and moderate-income senior renters.
4. That the Town explore collecting information about the housing costs of Brookline seniors. The Committee especially recommends that information about the percentage of seniors' annual income that is devoted to housing expenses be obtained. This information could be obtained via a stand-alone census of seniors or through an insert in a Town-wide mailing.

Finally, the Committee recognizes that the changing nature (increasing) of property taxes combined with new initiatives at the state level and other communities, combined with the aging of Brookline's population may require public process regarding tax relief on an ongoing basis.

Introduction

The Selectmen's Committee on Senior Tax Policy was established by the Board of Selectmen in January 2017. The committee was established following the passage of Warrant Article 33 at the Fall 2016 Special Town Meeting. Article 33 requested the establishment of such a committee.

The Board of Selectmen appointed seven Brookline residents to serve on the Selectmen's Committee on Senior Tax Policy (See Appendix B). The Committee was supported by Chief Assessor Gary McCabe. Mr. McCabe participated in all committee meetings and was an essential source of information.

The Selectmen adopted the following charge for the Committee on Senior Tax Policy:

- To evaluate residential property tax relief for low- and moderate-income senior homeowners. The Committee may accomplish this by:
 - Reviewing information about Brookline's residential taxpayers to understand the current, and possible future, composition of the residential taxpayer base, including the number of low- and moderate-income senior homeowner taxpayers;
 - Evaluating the effectiveness and adequacy of statutorily available tax relief programs for low- and moderate-income senior homeowners and, as needed, offering improvements to the implementation of the programs in Brookline;
 - Investigating the efforts of peer Massachusetts communities to provide residential tax assistance to seniors and determining the effectiveness and appropriateness of adoption of similar programs and policies by Brookline; and
 - Considering the creation of innovative programs that could be implemented to assist senior homeowners with low and moderate incomes.
- To develop appropriate policy recommendations, proposals for adjustment to local implementation of statutorily provided residential tax assistance programs for senior residential taxpayers with low- or

moderate-incomes, suggestions for new tax assistance programs that would benefit senior residential taxpayers with low or moderate incomes, and draft of warrant articles necessary to implement the committee's recommendations.

- To provide to the Board of Selectmen by no later than August 3, 2017 a report of the information the committee has gathered and its recommendations.
- In carrying out its charge the committee shall at all times be mindful that granting additional relief to low- and moderate-income senior homeowners will increase the burden on other groups of taxpayers.

Summary of Meetings

The committee met eight times and invited affected and interested parties to its meetings to help the committee carry out its charge and to provide personal and expert testimony. For a more complete record of individual meetings please refer to the committee's meeting minutes (<http://brooklinema.gov/1371/Senior-Tax-Policy-Committee>).

- **February 1, 2017:** Introductory meeting of the committee that included a discussion of the Committee's charge, a presentation by the Petitioner of Article 33, and discussion of existing property tax reduction/elimination programs available to seniors.
- **March 1, 2017:** Review of relevant census and public data in an attempt to quantify the number of seniors who would benefit from tax relief. The committee discussed broadly the difficulties of senior property owners and renters.
- **April 5, 2017:** Detailed review of existing property tax relief programs run by the Assessor's Office and of the Commonwealth's Circuit Breaker Program. Information about a local option program run in Sudbury was also presented.
- **May 3, 2017:** Discussion of the information presented to the committee at its previous three meetings and where the group wants to focus its attention and, potentially, make recommendations for action.
- **June 7, 2017:** Specific conversation about the low take-up rate for Brookline's existing property tax relief programs and further refinement of what recommendations and Warrant Articles the Committee will file.
- **July 12, 2017:** Testimony from representatives of Brookline Bank and Eastern Bank about the challenges the existing Senior Tax Deferral Program presents them. Also, discussion of three draft Warrant Articles to be filed at the fall 2017 Town Meeting.
- **August 23, 2017:** Vote by the Committee to file three Warrant Articles for the fall 2017 Town Meeting.
- **September 18, 2017:** Discussion of a draft committee report and a vote was taken on a final report.

Fact Base

The committee's work was conducted in a cordial and constructive manner at all times. There was general awareness and conclusion that:

- Brookline desires as a town to allow its seniors to “age in place” and “age in the community.” Seniors are a cherished resource and greatly contribute to community diversity, which is highly valued.
- There are an increasing number of Brookline senior homeowners with low- or moderate-incomes whose homes have risen greatly in assessed value since they were purchased. One consequence is that a growing number of Brookline senior homeowners who might otherwise have qualified for the Massachusetts Circuit Breaker Income Tax Credit because their incomes are sufficiently low no longer qualify due to their homes' valuation exceeding the program's cut-off point, which is based on a statewide average of assessed value for all single-family residences. This is largely due to the significant increase in property values throughout Brookline relative to other parts of the state. This combined with the 2015 Brookline override, and anticipated future overrides, has made property taxes a pressing concern of an increasing number of Brookline's low- and moderate-income seniors.
- It is difficult to discern exactly how many Brookline senior homeowners are undergoing significant financial hardship because of increasing property taxes. Existing data is disparate and incomplete and not sufficiently targeted. However, U.S. Census data indicates that in 2015 66.6% of Brookline seniors lived in owner-occupied homes and condos and about one-third (32.4%) of Brookline senior homeowners (1,215) paid more than 30% of their household income for housing costs.^{1,2} According to the American Community Survey, spending more than 30% of household income on housing expenses is an indication of excessive housing costs. Today, considering the 2015 Override and the increase in the number of Brookline seniors, that number could be larger.
- The existing tax assistance programs available through the Town provide limited relief. In FY2017, there were 11 seniors receiving 41C exemptions, 5 surviving spouse/minor child/elderly getting 17D exemptions, and 10 seniors in the tax deferral program. The exception to this is the Senior Tax Work Off Program where demand outpaced the available number of slots; 30 seniors participated in the work off program in FY2017. One cause of the underutilization may be the low asset and income ceilings set by statute for some of the relief programs; other causes may be a lack of knowledge or reticence on the part of individuals to be seen as needing

¹ SO103 [Brookline] Population 65 Years and Over, 2011-2015, American Community Survey 5-Year Estimates

² Housing costs include annual property taxes, mortgage payments, insurance, condo fees, rent, and the cost of utilities (water, sewer, electricity, gas, oil, telephone). They do not include the cost of repairs.

help.

- The Committee sought to find solutions that benefit the largest number of seniors in need.

The Committee decided, with the exception of one member, not to engage in creating additional preference for one group of taxpayers over another. It is understood that any reduction in taxes for one group by definition requires an increase in the burden to others.³

Recommendations

The Senior Tax Committee offers a total of seven recommendations. The committee's recommendations are divided into two groups - five within its charge from the Board of Selectmen and two outside of the mandate it received at the time of creation.

The five recommendations that fall within the committee's charge are concrete recommendations that can be implemented with the approval of Town Meeting, and, in the case of Article 6, also with the approval of the General Court. These recommendations were developed in direct response to the Selectmen's requests of the committee.

The two recommendations that fall outside of what the committee was empowered to investigate will require the Selectmen to implement additional public process. These recommendations are offered to identify for the Selectmen areas that merit further investigation and consideration.

The recommendations offered by the committee are a sub-set of the proposals and ideas that were vetted. After careful consideration, the committee declined to advance conversations on several of the ideas it discussed because of a lack of information, expense, or for public policy reasons. The following are ideas that were discussed but not pursued. These items are not being offered as recommendations:

- Forgiveness of any future property tax increases resulting from a future operating override or debt exclusion. To qualify a senior property owner would have needed to have resided in the same Brookline home for 20-years, be at least 80 years of age, and have a home with an assessed value of less than \$1.5 million. This proposal was not pursued for several reasons
 - Basing such relief on the length of time seniors have resided in Brookline was deemed inappropriate;
 - The committee believed more income targeted, and therefore better, efforts could be undertaken to assist seniors struggling to pay their taxes;
 - A majority of the committee though it inappropriate to shift a portion of a subset of seniors' future property taxes onto other groups of

³ For a Minority Report on this issue see Appendix A

taxpayers.

- Establishment of a property tax credit equal to the amount of the Commonwealth's Senior Tax Circuit Breaker income tax credit. To qualify for the subsidy a senior would need to have not received the Circuit Breaker income tax credit, have met all the income and filing qualifications, and have failed to receive the credit only because the value of their home exceeds what is allowed. This proposal was not pursued for two reasons:
 - A majority of the committee sensed that it would apply to a small group of seniors while requiring a significant amount of political process to be put into place;
 - A majority of the committee thought it inappropriate to shift a portion of a subset of seniors' future property taxes onto other groups of taxpayers.
- Capping the senior tax deferral program at its current 5% rate, preventing it from reaching the 8% maximum rate allowed under state law in the future. This proposal was not pursued for three reasons:
 - Implementation of the proposal could result in taxpayers not participating in the program subsidizing taxpayers who elect to enroll in the deferral program with a below market rate interest rate;
 - Concern that setting an interest rate ceiling that could, in the future, be below the market rate might lead to odd incentives - property owners may be motivated to defer their taxes and instead invest the dollars in an attempt to benefit from the difference between the deferral program interest rate and what could be obtained from stocks, bonds or CDs, or from the simple appreciation in property values;
 - Given that interest rates are at historic lows, the question of capping the rate below 8% was not seen as an immediate problem and there was consensus that, if the interest rate approached an uncomfortable level in the future, Town Meeting could revisit the maximum rate question.
- Establishing a means tested program that limits the amount of property tax qualified seniors pay in a calendar year to no more than 10% of their annual income. Qualified seniors would only be able to reduce their property tax bill by a maximum of 50% in a year. Such a program is currently in place in Sudbury, MA. This proposal was not pursued for three reasons:
 - Brookline has a residential exception and the committee declined to pursue conversations that would have altered the existing shift of the residential taxes;
 - The program would be expensive to implement and no source of funding was readily evident;
 - A majority of the committee thought it inappropriate to shift a portion of a subset of seniors' future property taxes onto other groups of taxpayers.

Within the Charge:

At its August 23rd meeting, the committee voted unanimously to submit three Warrant Articles to the Fall 2017 Special Town Meeting. The articles are the result of testimony and conversation the Committee had during its meetings.

Two of the articles (Articles 6 and 7) aim to address two issues that the committee believes are responsible for the low-enrollment in the Tax Deferral Program – the higher than market-rate interest charged on deferred tax payments, and the low (by Brookline standards) income limit on eligibility. The third article would establish an additional resource that could be tapped to provide relief to senior taxpayers in need, or to increase awareness about the availability of relief to those that qualify.

The Committee filed articles are as follows:

Article 6

To see if the Town will vote to authorize the Board of Selectmen to petition the Legislature for a special act authorizing the Town to increase the maximum qualifying gross receipts amount for purposes of M.G.L. Chapter 59, Section 5 clause Forty-First A, from the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of Section 6 of Chapter 62 for a single person who is not a head of household to that of married persons filing jointly, or take any other action relative thereto.

Article 7

To see if the Town will vote to reduce the rate of interest on real property taxes that are deferred under the provisions of M.G.L. Chapter 59, Section 5 clause Forty-first A from five per cent per annum to the one-year average of the U.S. 10 year treasury constant maturity rate for the calendar year preceding the beginning of any fiscal year the eligible property owner enters into a tax deferral and recovery agreement with the board of assessors as provided in said Section 5 clause Forty-first A; provided that such rate of interest shall not be more than the maximum rate allowed under said clause Forty-First A, or take any other action relative thereto.

Article 8

To see if the Town will vote to accept the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, thereby establishing a taxation aid committee and aid to the elderly and disabled taxation fund as provided in said Section 3D; or take any other action relative thereto.

The Committee strongly recommends Town Meeting pass the three Warrant Articles in their present form.

The Committee makes two additional recommendations that fall squarely within its charge.

First, an effort be established (voluntarily) to work with seniors and the existing organizations that serve seniors to:

- Make seniors aware of existing and new programs offered by Brookline and local financial institutions that may alleviate or mitigate their property tax burden.
- Work with seniors to increase familiarity with financial products offered by the financial institutions that may help them meet their tax liabilities.
- Work with financial institutions to make them aware of the needs and concerns of senior citizens so that such financial institutions may be better able to serve the needs of seniors.

This recommendation is the result of the Committee's conclusions that state law, and public policy and practical considerations limit the types of efforts that can be undertaken by Town government. The Town, for example, should not dispense financial or tax planning advice to residents. Similarly, the Town should be wary of creating new programs where reasonable alternatives already exist operated by financial institutions with the expertise and resources necessary to facilitate outcomes favorable to seniors.

Second, the number of available Senior Tax Work Off slots should be expanded gradually, assuming adequate supervision and work is available to ensure enrolled seniors provide value to the Town.

The Committee also wishes to voice support for a staff led effort to prevent the opening of tax taking proceedings against senior taxpayers who have failed to pay their property taxes within the fiscal year prior to their account becoming delinquent. Action on delinquent accounts is usually taken in May following the May 1st tax bill due date. In lieu of tax taking proceedings, the Town has the option to place a lien against a property for the amount of unpaid taxes, plus any accrued interest. While the interest rate charged on a lien is high – far higher than that charged to participants in the tax deferral program despite the same practical result - the placing of a lien(s) is deemed preferable to the taking of a property and the eviction of a senior. The Committee strongly supports this policy choice and hopes it will quickly be adopted and implemented by the relevant Town boards/commissions and officials.

Outside the Charge:

The Committee believes the five recommendations that fall within its charge are first steps toward making it easier for low- and moderate-income senior property owners to remain in Town. The Committee believes two additional considerations, that go beyond its charge, should be explored and potentially implemented in the future. Its recommendations are as follows:

1. That the Town explore providing relief from the high cost of housing in Brookline to low- and moderate-income senior renters.

2. That the Town explore collecting information about the housing costs of Brookline seniors. The Committee especially recommends that information about the percentage of seniors' annual income that is devoted to housing expenses be obtained. This information could be obtained via a stand-alone census of seniors or through an insert in a Town-wide mailing.

These recommendations require additional public process before they could be adopted and implemented. These recommendations are simply offered to identify for the Selectmen areas that merit further investigation and consideration.

The Committee understands that this matter may need to be revisited by a successor committee within three years to evaluate progress, review new data, and reevaluate need.

Acknowledgements

The Selectmen's Committee on Senior Tax Policy thanks all Brookline residents, Town Meeting Members, Brookline and Eastern Bank, and community leaders that offered their views to the committee. The Committee also thanks Finance Director Jeana Franconia for her assistance to the committee in discharging its responsibilities.

The Committee especially wishes to express its thanks and gratitude to the Town's Chief Assessor Gary McCabe. Mr. McCabe participated in all committee meetings and was an invaluable source of legal and practical information.

Appendix A: Minority Report on Issue of Creating Preferences for Certain Groups of Taxpayers

While I fully support the three warrant articles and the other recommendations of our Senior Tax Policy committee that appear in our Final Report, I am extremely disappointed that, after eight months of analysis and meetings, our committee did not produce any recommendations for new property tax exemption programs for Brookline's needy senior homeowners with low or modest incomes.

I am especially troubled that a large majority of the committee's members took the stance that they would not approve of (or even seriously consider) ANY new programs that involved any form of tax exemption to needy senior homeowners (no matter how low the seniors' incomes or how small the dollar amounts of the proposed exemptions).

As explained by the committee's majority: *“The committee does not wish to engage in creating a preference for one demographic group or group of taxpayers over another. It is understood that any reduction in taxes for one group by definition requires an increase in the burden to others.”* [Italics added.]

The warrant article that created this committee – and was overwhelmingly approved by Town Meeting in November 2016 – contained no such restrictive language. Nor did the Selectmen's charge.

Moreover, this self-imposed restriction ignored the Town's long history of warrant articles that created a tax preference for particular demographic groups over others. Just last May, for example, at our 2017 Annual Town Meeting, town meeting members voted in favor of Warrant Article 6, which doubled the Town's existing property tax exemptions for select demographic groups such as homeowners who are disabled veterans or blind homeowners, regardless of their income levels or assets. Another example is our Town's history of granting residential property tax exemptions to homeowners who reside in the house that they own in Brookline. Perhaps most indicative of the Town's willingness to use tax revenues to favor specific demographic groups is the Town's decision that a minimum of 50% of the Town's tax revenues be used for funding the Town's school system despite the fact that fewer than 25% of Brookline households contain children under 18 years of age, thereby favoring one particular demographic group (households with children under age 18) over the vast majority of Brookline's households without children. These governmental tax preferences for specific demographic groups are a strong expression of our town's values.

In voting in favor of the warrant article that established this committee, Town Meeting clearly expressed a preference for viewing needy seniors, and specifically needy senior homeowners, as a valued demographic group that was deserving of some kind of favored tax treatment and the expenditure of at least some Town revenue on programs to provide enhanced property tax relief.

As the original petitioner whose warrant article led to the formation of this committee, I had hoped that the committee would recommend a number of new tax exemption programs for senior homeowners with low or modest incomes in addition to an improved tax deferral program. This was desirable for two reasons. First, because it would enable needy seniors to select a program that was best suited to their particular situations and needs, and second, because the tax deferral program, even if improved according to our recommendations, has certain inherent limitations. For example, senior homeowners whose homes have conventional (non-portfolio) mortgages are unable to take part in the program at all (according to the local bankers who met with our committee) because their mortgage holders cannot or will not cede their status as first lienholders to the Town as required for participation. Additionally, the program's participants are likely to see a significant increase in their federal income taxes because they no longer are able to claim their property taxes as an itemized deduction. Moreover, their property taxes can only be deferred up to a maximum of 50% of the home's value, and interest rates on the entire unpaid balance of a senior's deferred property taxes will automatically jump to 14% as soon as the senior dies. All of these drawbacks may serve to limit senior participation in the tax deferral program. Yet our committee produced no recommended new alternative tax relief programs for those senior homeowners who cannot or do not wish to participate in the tax deferral program.

Nor did our committee recommend any proposal that specifically addresses the problem of senior Brookline homeowners with low or modest incomes who no longer qualify for the state Circuit Breaker income tax credit of up to \$1,070 solely because their homes' valuations now exceed the program's cut-off point. Since this was one of the key reasons for creating this committee, the committee's failure to come up with such a proposal is both noteworthy and disappointing.

While I believe that our committee did an excellent job of analyzing and making recommendations to improve Brookline's tax deferral program, our committee's unduly narrow interpretation of our charge unfortunately resulted in our failure to spend sufficient time considering and developing innovative tax exemption program proposals to provide enhanced tax relief to needy Brookline senior homeowners. I urge that a successor committee be created with the express charge of recommending new tax exemption programs for senior homeowners with low and modest incomes.

I also urge that the Town survey its seniors to collect data about the housing costs of seniors, the number of senior homeowners with mortgages, and especially the percentage of seniors' annual household income being devoted to housing expenses. Identifying, for example, how many Brookline senior homeowners spend at least 50 or 60% of their annual household income on housing costs could be very revealing about the degree and extent of tax relief that might be needed. This data would provide any successor committee with more complete and accurate information on which to base its work than our committee was able to access.

Respectfully submitted,

Susan Granoff
TMM Precinct 7

Appendix B: Committee Membership

Selectman Ben Franco, Chair

Frank Caro, Town Meeting Member Precinct 10

Neil Gordon, Town Meeting Member Precinct 1

Susan Granoff, Town Meeting Member Precinct 7 & Petitioner of Article 33

Jeffrey Kushner, Town Meeting Member Precinct 14

Harold Petersen, Vice Chair, Brookline Board of Assessors

Sandra Spector, Senior Center volunteer