

# THE RISING COST OF BUFFALO'S WORST TAX BREAK

Cost of widely abused 485-a  
exemption climbs to \$66.9 million  
while elected officials fail to act



public  
accountability  
initiative



In

August 2018, PAI published “Buffalo’s Costly Mistake,” a report examining the little-known and widely abused 485-a property tax exemption in Buffalo.

The 485-a exemption was intended to create an incentive for investors to repurpose vacant commercial and industrial buildings left in the wake of Buffalo’s deindustrialization into properties that mix residential and commercial tenants and restore the urban feeling to Buffalo’s downtown.

In practice – due to the law’s vague wording, a lack of oversight, and political deference to the real estate industry – 485-a has been twisted and misused to apply to developments well outside the law’s original intent, and often outside even its technical requirements. In Buffalo, where the program is used more than anywhere else in New York State, 485-a has been used to shunt tens of millions of dollars of property tax liability from the wealthy developers who can access the program to other property owners and renters in the city.

When we published our report last year, we estimated that 485-a exemptions that had been awarded up to that point would cost Buffalo property owners \$63.5 million through 2029.

Since then – despite calls for repealing, opting out of, or reforming the program from elected officials and members of the community – new exemptions have swelled our estimate of the cost of 485-a to \$66.9 million through 2030 and the city government has taken no action to fix this broken program.

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The Buffalo Common Council has a proposed ordinance to opt out of 485-a, which has been tabled since July 2018.

A state-level bill that proposed mild reforms to 485-a to curb its most egregious abuses passed through the New York State Assembly with unanimous support in 2019, but the same bill in the Senate was sent back to committee on the last day of the legislative session before a floor vote was held. Neither Chris Jacobs nor Tim Kennedy, Buffalo’s state senators, sponsored the bill, and both receive significant financial support from real estate developers. Chris Jacobs is a developer himself, and projects he has a stake in have received 485-a exemptions worth more than \$800,000.

PAI analyzed property records to find developments that have been awarded the 485-a tax exemption since we compiled the data for our report last year. We also examined applications for subsidies through the Erie County Industrial Development Agency (ECIDA) to identify properties that indicated they intend to pursue the tax break and will likely receive it in the future.

We found that, since our initial report, the city has awarded 485-a tax breaks worth \$3.6 million to 11 properties, one of which appears to not meet the mixed-use requirement of the law. We found other projects where developers have announced their intent to take advantage of the law’s vagueness by adding one small apartment to otherwise non-residential projects in order to meet the technical requirements of 485-a and effectively dodge their city property taxes for 12 years – a trick that we have named the “Benderson loophole” after the developer who pioneered this abuse of the program to obtain an exemption worth \$5.9 million for their project at 125 Main Street.

**Key findings in this updated examination of the cost of the 485-a program for the people of Buffalo include:**

- **PAI estimates the City of Buffalo has shifted \$66.9 million in taxes on 96 properties from luxury developers to other taxpayers.** This is the amount for properties that have been awarded the 485-a exemption from 2007 through 2019, and will increase as more properties are awarded the exemption.
- **The City of Buffalo has awarded 485-a exemptions worth \$3.6 million to 11 properties since our previous report on the program.** Beneficiaries of new 485-a tax breaks include major developers Rocco Termini, Carl Paladino, and Randy Benderson.
- **Developers continue to exploit the “Benderson loophole,” adding single apartments to projects to qualify for massive tax exemptions, subverting the intent of the law.** PAI has identified three properties that have been awarded 485-a exemptions worth \$7.2 million by exploiting the Benderson loophole and at least three others whose owners have declared their intent to obtain exemptions by exploiting the loophole.
- **Chris Jacobs, a state senator who represents part of Buffalo, has a stake in two properties with 485-a exemptions worth \$862,697.** Jacobs reported rent income from 678 Main Street and 686 Main Street, both of which have benefited from the 485-a regime, in his 2018 personal financial disclosure.
- **Tim Kennedy, a state senator who represents part of Buffalo, is the son of the Buffalo Commissioner of Taxation and Assessment who awarded all of the 485-a exemptions currently in effect in the city.** Martin Kennedy was the tax commissioner for 12 years, overseeing an explosion in 485-a awards, and defended the program to the Buffalo Common Council and to news media.
- **Chris Jacobs and Tim Kennedy have received at least \$153,915 in campaign donations from beneficiaries of 485-a since 2011.** Major donors to both State Senators who benefit from 485-a include Nick Sinatra, Randy Benderson, and Paul Ciminelli and their companies.

## 485-A EXEMPTIONS GRANTED SINCE 2018

PAI's analysis of Buffalo property records uncovered 11 properties that have received the 485-a exemption since our 2018 report. If taxed at their full value, the owners of these properties assessed at \$15.6 million in value would have paid more than \$450,000 in property taxes in 2019. With their 485-a exemptions, owners paid less than \$90,000, passing on the difference to be paid by the people of Buffalo.

We estimate that these exemptions are worth \$3.6 million to developers.

The newly awarded 485-a breaks bring the total estimated value of 485-a breaks up to \$66.9 million. As we noted in our previous report, as more exemptions are awarded and as property values in the city rise, the total amount of tax liability foisted from the developers who own luxury buildings onto the rest of the property owners and renters in Buffalo will increase.

**Table 1. Estimated Value of New 485-a Exemptions**

Property	Developer	Assessed value	2019 taxes*	2019 taxes without exemption*	Total estimated value of exemption*
1360 Niagara	Ciminelli Real Estate	\$3,950,000	\$13,043	\$116,485	\$1,008,281
618 Delaware	Benderson Development	\$3,800,000	\$34,208	\$112,062	\$758,863
155 Chandler	Signature Development	\$2,100,000	\$4,423	\$61,929	\$560,524
510 Washington	Mark C Judd	\$1,300,000	\$2,949	\$38,337	\$344,938
65 Vandalia	Lazarus Properties	\$1,312,000	\$3,482	\$38,705	\$343,328
192 Seneca	Ellicott Development	\$1,030,000	\$8,929	\$30,374	\$209,032
169 Elk	Savarino Development	\$562,500	\$4,246	\$16,588	\$120,297
128 Pearl	St. Paul's Episcopal Cathedral & Schneider Development	\$565,000	\$5,750	\$16,661	\$106,356
292 South Park	Collision Masters	\$519,500	\$5,883	\$15,320	\$91,983
5 Genesee	Steven Carmina	\$252,500	\$1,179	\$7,446	\$61,083
110 Genesee	Christopher & Thomas Juliano	\$170,000	\$1,474	\$5,013	\$34,494
<b>Total</b>		<b>\$15,561,500</b>	<b>\$85,566</b>	<b>\$458,920</b>	<b>\$3,639,177</b>

Source: 485-a applications and City of Buffalo Assessment Roll

\* Numbers have been rounded down to the nearest whole dollar

## NOTABLE NEW 485-A PROJECTS

The following are some notable examples of new projects that have taken advantage of the 485-a property tax exemption since April 2018.

### 1360 Niagara Street

Developer: Ciminelli Real Estate

Assessed value: \$3.95 million

2019 taxes: \$13,043

2019 taxes without exemption: \$116,485

The Mentholatum Apartments, Ciminelli Real Estate's conversion of the former headquarters and manufacturing facility for the Mentholatum company into loft apartments and commercial space, is the recipient of the most valuable 485-a exemption awarded in 2018.<sup>1</sup> In the first year the break was in effect, Ciminelli was exempted from more than 88% of the taxes the firm would have owed on the luxury property.

The Mentholatum Apartments is one of many formerly industrial buildings on Niagara Street and Busti Avenue along the Niagara River that have been converted into luxury apartments. Several of these projects have been subsidized by the 485-a tax exemption, including Ellicott Development projects at 1088 Niagara Street and 960 Busti Avenue and Natale Builders' development at 1502 Niagara.

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<sup>1</sup> <https://www.documentcloud.org/documents/6404010-Niagara-1360-485a-Exemption-Application.html>

# 618 Delaware Avenue

Developer: Benderson Development

Assessed value: \$3.8 million

2019 taxes: \$34,208

2019 taxes without exemption: \$112,062

Benderson Development's redevelopment of a Holiday Inn on Delaware Avenue between North Street and Allen Street into a Residence Inn, Starbucks, and four basement apartments received a 485-a tax break in 2018 worth \$758,863.<sup>2</sup>

The project is another example of 485-a being stretched beyond its initial intent to subsidize a development that in all likelihood would have happened without the tax exemption. Here, rather than developing a vacant industrial building into a mix of residential and commercial uses, Benderson renovated an operational hotel and managed to qualify for a valuable property tax exemption by adding four basement-level apartments.

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<sup>2</sup> <https://www.documentcloud.org/documents/6404006-Delaware-618-485a-Exemption-Application.html>

# 155 Chandler Street

Developer: Signature Development (Rocco Termini)

Assessed value: \$2.1 million

2019 Taxes: \$4,423

2019 Taxes without exemption: \$61,929

Rocco Termini's Signature Development converted the former Linde Air Manufacturing at 155 Chandler Street into office space for a software company, a manufacturing firm, and space for local companies that produce apple cider and pickles.<sup>3</sup> The inclusion of four apartments (up from only two planned when Termini was awarded a hefty subsidy package from the ECIDA) qualified the project for Buffalo's 485-a exemption, which we estimate is worth \$1,268,309.

R&M Leasing LLC – Termini's shell company for the project – has also received \$100,928 in mortgage tax savings and \$87,500 in sales tax savings through ECIDA subsidies for 155 Chandler Street. According to Termini's ECIDA application, he also anticipated subsidies through historic tax credits, brownfield tax credits, and \$7.7 million in credits and grants from National Grid. Through participation in the Start-Up NY program, tenants at 155 Chandler Street will be exempt from all state and local taxes for 10 years.

155 Chandler Street is part of Termini's larger publicly subsidized development project in Black Rock, dubbed "Chandlerville" by the *Buffalo News*, where the developer is planning "Buffalo's fledgling eating-and-drinking district."<sup>4</sup> Along Chandler Street, Termini has bought up former industrial buildings and – with public money – is converting them into space for food businesses, computer start-up companies, apartments, and a private pool club.

Another Termini project at 166 Chandler Street, which has also received public money, is home to another business incubator space and restaurants. Termini is developing several other properties on the street as well.

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<sup>3</sup> <https://www.documentcloud.org/documents/6404005-Chandler-155-485a-Exemption-Application.html>

<sup>4</sup> <https://buffalonews.com/2019/04/10/welcome-to-chandlerville-buffalos-fledgling-eating-and-drinking-district/>

# DEVELOPERS CONTINUE TO EXPLOIT THE "BENDERSON LOOPHOLE"

At a November 2018 Buffalo Common Council hearing addressing the 485-a program, City of Buffalo Commissioner of Taxation and Assessment Martin F. Kennedy said that a development qualifying for 485-a due to the inclusion of a single apartment had happened "once, maybe twice."<sup>5</sup> As of October 2019, PAI has identified at least three properties that were awarded exemptions worth \$7.2 million due to the Benderson loophole and at least three others whose owners have declared their intent to exploit it.

The most egregious example of this loophole in Buffalo remains Benderson Development's One Canalside building, where the developer added a single, 900 sq-ft apartment to the 175,546 sq-ft building in order to add a 485-a exemption worth \$5.9 million to the \$11.7 million in additional subsidies the developer received.

The second use of the Benderson loophole that Kennedy was most likely referring to is Mark Croce's Curtiss Hotel at 210 Franklin Street, which qualifies for a 485-a exemption worth \$1.2 million thanks to a single 564 sq-ft apartment, which makes up 0.9% of the 61,766 sq-ft of rentable area in the building.

Another property – the Collision Masters at 292 South Park Avenue – qualified for and received a 485-a exemption through the Benderson loophole in December 2018.<sup>6</sup> By adding the single apartment to his building, PAI estimates that Collision Masters' owner Frank J. Todaro will avoid paying \$91,983 in property taxes over the next 12 years.

Other developers have announced their intent to obtain the 485-a exemption for their properties through the Benderson loophole, though they have not yet received the exemption, which is only awarded once a project is completed. Reviews of subsidy applications submitted to the Erie County Industrial Development Agency reveal at least three upcoming projects whose developers have disclosed that they intend to qualify for 485-a by adding a single apartment.

Notably, all three of these large upcoming developments seeking to exploit the Benderson loophole intend to layer their 485-a property tax exemption on top of hundreds of thousands of other subsidies from the Erie County Industrial Development Agency and other sources.

**PAI has identified at least three properties that were awarded exemptions worth \$7.2 million due to the Benderson loophole**

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<sup>5</sup> <http://buffalony.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1668&MinutesID=1570&FileFormat=pdf&Format=Minutes&MediaFileFormat=mpeg4#>

<sup>6</sup> <https://www.documentcloud.org/documents/6404013-South-Park-292-485a-Exemption-Application.html>



## 75 West Huron Street

A team led by F James McGuire of McGuire Development and Mark Croce of Buffalo Development Corp are redeveloping the former C.W. Miller Livery stable at 75 West Huron Street downtown into a second campus for the Emerson School of Hospitality, a high school in the Buffalo public school system.<sup>7</sup>

Minutes from the December 2017 meeting of the ECIDA board of directors indicate that the 75 West Huron developers elected to add one apartment to the project in order to qualify for 485-a:

[ECIDA Chair Brenda] McDuffie commented that the single apartment is being constructed to take advantage of the City of Buffalo's real property tax exemption benefit provided under Section 485-a of the New York Real Property Tax Law.<sup>8</sup>

The one apartment, which could exempt the developers from millions of dollars in city property taxes, will be 600 sq-ft and rent for either \$800 or \$900 per month.

The project has already received subsidies from the ECIDA, including \$1.75 million in sales tax savings and \$180,000 in mortgage in mortgage recording tax savings.<sup>9</sup> The developers' ECIDA application indicates that in addition to their ECIDA subsidies, they will seek state and federal historic tax credits and brownfield tax credits.

On top of subsidies, the owners of the building will also draw income from taxpayer-funded rents. According to ECIDA board meeting minutes, the developers have negotiated rent from Buffalo Public Schools at \$3 million per year.<sup>10</sup>

## 467 Richmond Avenue

Rachel and Ryan Heckl, the owners of a former church being converted into art studios and a performance space at 467 Richmond Avenue in the Elmwood Village, added one apartment to the plan for their building after PAI published our previous report on the program. According to the *Buffalo News*:

The project will also include a single 404-square-foot residential apartment, renting for \$800 per month. That's a new component of the plan – in order to obtain a property tax break through the city's 485-a program that requires a mix of commercial and residential space to qualify.<sup>11</sup>

Through the ECIDA, the Heckls have been exempted from an estimated \$345,625 in sales taxes and up to \$50,000 in mortgage recording tax. They are also receiving \$3 million in historic tax credits and have been granted a \$1.5 million low-interest loan through the Better Buffalo Fund, according to the *Buffalo News*. Further, the building is registered with the START-UP New York program through Buffalo State University, which could allow tenants to avoid paying all state and local taxes as well.

<sup>7</sup> <https://buffalonews.com/2017/07/22/emerson-school-developers-start-work-soon/>

<sup>8</sup> [https://www.ecidany.com/documents/ECIDA\\_Minutes/board%20minutes%20Dec%202017.pdf](https://www.ecidany.com/documents/ECIDA_Minutes/board%20minutes%20Dec%202017.pdf)

<sup>9</sup> <https://www.ecidany.com/app/project/208>

<sup>10</sup> [https://www.ecidany.com/documents/ECIDA\\_Minutes/board%20minutes%20Dec%202017.pdf](https://www.ecidany.com/documents/ECIDA_Minutes/board%20minutes%20Dec%202017.pdf)

<sup>11</sup> <https://buffalonews.com/2018/10/25/developers-behind-richmond-avenue-church-conversion-into-arts-center-seek-tax-breaks/>

## 505 Ellicott Street

Uniland Development, a major local real estate firm owned by the Montante family, is planning to convert a former auto parts warehouse at 505 Ellicott Street into offices for high-tech businesses and a restaurant, speculating that the downtown property will be able to attract tenants.

Uniland applied to the ECIDA for tax breaks for the project, seeking \$330,922 in sales tax breaks and \$48,462 in mortgage recording tax exemptions, the company disclosed that it also intended to obtain a 485-a property tax exemption by adding one 882 sq-ft apartment they plan to rent at \$1,000 to \$1,100 per month.

Uniland's plan to take advantage of the Benderson loophole prompted a *Buffalo News* story focusing on that aspect of their project, with the headline "Uniland seeks tax breaks for 505 Ellicott project with lone apartment."<sup>12</sup> The plan also drew criticism from the *News's* editorial board, saying that it was "legal, but inappropriate [for Uniland] to use 485-a tax break loophole."<sup>13</sup> The editorial board called the loophole "an end-run around the law's intent" that "abuses its spirit" and also called for the state government to amend the 485-a law, saying that "the people providing those taxes also have a right not to be exploited."

## BUFFALO STATE SENATORS WITH TIES TO 485-A FAILED TO ACT ON REFORMS

At the end of the state legislative session in June 2019, the New York State Assembly passed a bill to reform the 485-a program. While the bill would not address the questionable logic undergirding the program, it would remedy some of the most pressing issues with 485-a. The bill would close the Benderson loophole by requiring that at least 50% of the building be residential and at least 15% commercial, it would stop developers from obtaining the exemption for new construction, and it would require annual recertification and clawback of avoided taxes if a project is found not to comply with requirements.<sup>14</sup>

Surprisingly the Assembly version of the bill (sponsored by members from Buffalo and Syracuse, both of which had widely reported abuses of the tax break) was passed unanimously.<sup>15</sup> The Senate version of the bill (sponsored by a senator from Syracuse and one from Albany, which also had documented abuses of 485-a) made it to the floor, but was abruptly sent back to committee before it could be voted on.<sup>16</sup>

Neither of Buffalo's two state senators sponsored the senate version of the 485-a reform bill, despite the ongoing issues with the program in Buffalo. Both senators have personal connections to the 485-a regime in Buffalo: Chris Jacobs, who represents the 60th senate district, personally benefits from 485-a exemptions for two buildings he owns, and Tim Kennedy, who represents the 63rd senate district, is the son of the recently retired Buffalo commissioner of taxation and assessment who awarded all of the 485-a exemptions. Both senators have received a great deal of campaign money from the real estate industry.

<sup>12</sup> <https://buffalonews.com/2019/06/23/uniland-seeks-tax-breaks-for-505-ellcott-project-with-lone-apartment/>

<sup>13</sup> <https://buffalonews.com/2019/07/01/editorial-uniland-misuses-the-public/>

<sup>14</sup> <https://www.nysenate.gov/legislation/bills/2019/a8091>

<sup>15</sup> <https://www.syracuse.com/news/2019/06/ny-assembly-takes-aim-at-egregious-abuse-of-tax-break-in-syracuse-elsewhere.html>

<sup>16</sup> <https://www.syracuse.com/news/2019/06/ny-lawmakers-put-off-reforming-tax-break-prone-to-egregious-abuse.html>

## Senator Chris Jacobs

Christopher Jacobs is the New York State Senator representing the 60th senate district, including North Buffalo and the West Side, Tonawanda, Amherst, Grand Island, and southern suburbs along the lake all the way down to Irving. Jacobs is a real estate developer who owns the firm Avalon Development. He is the nephew of East Aurora billionaire Jeremy Jacobs, who owns the concessions company Delaware North with his immediate family. Chris Jacobs's father Lawrence Jacobs was a doctor at Roswell Park Cancer Institute, his brother Luke Jacobs is the CEO of the financial management firm Barrantys, and his brother-in-law Matthew Enstice is the President & CEO of Buffalo Niagara Medical Campus, the quasi-governmental group overseeing the development of a medical district on and around Main Street between Allentown and the Fruit Belt.

Jacobs has a stake in two buildings – 678 Main Street and 686 Main Street – that have received the 485-a tax break. We estimated that the breaks for these buildings are worth \$111,970 and \$750,727 respectively. In his 2018 personal financial disclosure, Jacobs reported earning between \$350,000 and \$450,000 in partnership income from 678 Associates LLC and between \$1 and \$1,000 in partnership income from 686 Main Street Manager LLC.<sup>17</sup> Jacobs reported that he held a 50% stake in 678 Main Street, which has a market value of \$1.5 million according to the city property database. Jacobs did not disclose an ownership stake in 686 Main Street, but officials are only required to disclose property in which they own a 50% or greater stake.

In all, Jacobs reported receiving between \$606,000 and \$846,000 in income from his real estate businesses in 2018 on top of his \$79,500 salary as a legislator. Jacobs reported owning at least a 50% stake in 10 properties, two of which he has since sold, with a market value between \$8.6 million and \$9.6 million.

Beyond the more than half a million dollars per year he earns from his real estate investments, Jacobs has also brought in a great deal of political campaign money from the real estate industry, including from other Buffalo developers who benefit from 485-a.

We found that Jacobs has received at least \$70,188 in campaign contributions from individuals and companies with properties that have received the 485-a tax break since 2011. This total does not include at least \$30,666 that Jacobs and his own companies have put into his campaigns.

**State Senator  
Chris Jacobs  
has a stake in  
buildings with  
485-a tax breaks  
worth \$862,697**

**Table 2. Top Five Donors to Chris Jacobs that Benefit from 485-a**

Contributor	Total contributed to Jacobs since 2011	Value of 485-a tax breaks
Carl Paladino & Ellicott Development	\$19,600	\$9,679,436
Peter & Paul Lamparelli	\$13,015	\$136,580
Rocco Termini & Signature Development	\$5,858	\$7,305,177
Nick Sinatra & Sinatra & Company Real Estate	\$5,399	\$1,545,057
Benderson Family, Benderson Development, & Delta Sonic	\$5,400	\$6,684,775

Source: NYS Board of Elections & City of Buffalo Assessment Rolls

<sup>17</sup> [https://jcope.ny.gov/system/files/documents/2019/07/Senator-Jacobs%20C\\_2018%20FDS.pdf](https://jcope.ny.gov/system/files/documents/2019/07/Senator-Jacobs%20C_2018%20FDS.pdf)

## Senator Tim Kennedy

Timothy Kennedy is the New York State Senator representing the 63rd senate district, which includes the East Side and South Buffalo, Cheektowaga, and Lackawanna. Kennedy, who has a degree in occupational therapy, made his political career through South Buffalo's political machine, volunteering on campaigns for Brian Higgins, assuming the county legislature seat of Mark Schroeder in 2004, then rising to the state senate in 2010.<sup>18</sup>

Kennedy has a personal connection to the 485-a program. His father, Martin F. Kennedy, was the City of Buffalo's Commissioner of Taxation and Assessment from 2007 through February 2019, during which time the number of properties with the 485-a exemption exploded from two to 96.<sup>19</sup>

As commissioner, Martin Kennedy's administration of the 485-a exemptions that were awarded by the City of Buffalo, including several for projects that did not qualify. After PAI published "Buffalo's Costly Mistake," Martin Kennedy defended the 485-a program, telling the Buffalo Common Council's legislation committee: "It works very, very well."<sup>20</sup> Kennedy also told the *Buffalo News*: "At no time has there been a project approved for this exemption that was not eligible for the exemption," which is not true.<sup>21</sup> In fact, Kennedy's office had rescinded several 485-a exemptions that had been awarded to ineligible properties, which was noted in PAI's 2018 report.

Beyond his family connection to 485-a exemptions, Senator Tim Kennedy has also been a major beneficiary of campaign contributions from developers who benefit from the program as well as from the real estate industry generally. We found that Kennedy has raised at least \$83,727 from developers who have been awarded 485-a exemptions and their businesses since 2011.

State Senator  
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**Table 3. Top Five Donors to Tim Kennedy that Benefit from 485-a**

Contributor	Total contributed to Kennedy since 2011	Value of 485-a tax breaks
David Pawlik and Creative Structures Services	\$23,950	\$62,567
Howard & Leslie Zemsky and Larkin Development	\$22,250	\$128,937
Nick Sinatra and Sinatra & Company Real Estate	\$10,297	\$1,545,057
Benderson Family, Benderson Development, & Delta Sonic	\$8,800	\$6,684,775
Paul Ciminelli and Ciminelli Real Estate Corp	\$8,000	\$2,312,477

Source: NYS Board of Elections & City of Buffalo Assessment Rolls

<sup>18</sup> <https://buffalonews.com/2019/01/02/tim-kennedy-rides-from-humble-beginnings-to-political-power/>

<sup>19</sup> <https://buffalonews.com/2019/02/06/buffalos-assessment-chief-retiring-after-nearly-30-years-in-city-hall/>

<sup>20</sup> <http://buffalony.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1668&MinutesID=1570&FileFormat=pdf&Format=Minutes&MediaFileFormat=mpeg4#>

<sup>21</sup> <https://buffalonews.com/2018/08/22/city-property-tax-break-program-facing-increased-scrutiny/>

## CONCLUSION AND RECOMMENDATIONS

Without intervention from the city or state governments, people in Buffalo will be forced to continue paying tens of millions of dollars to increase the profit margins of luxury developments through the 485-a program. As more properties are granted tax exemptions under the expansive reading of the law adopted by the Buffalo city government, the current \$66.9 million price tag for subsidizing new luxury development will continue to climb.

Some proponents of the subsidy say that the cost to taxpayers is worth it, as after properties age out of the exemption, they will pay taxes at the full rate. While this may be how the program is intended to work, the hypothesis remains largely untested as the vast majority of the properties that have been awarded the exemption so far are still benefiting from it. Any number of events that may occur in the 12-year lifespan of any given exemption could result in developers not paying taxes on the full value on the property.

In the meantime, rising rents and property taxes are forcing people in Buffalo out of the homes and neighborhoods where they have lived for years. Even in the best case scenario, gentrification spurred by these subsidies will displace hundreds of people before building owners start paying their fair share.

Because the beneficiaries of 485-a are major political donors – and in the case of Chris Jacobs, an elected official himself – efforts to discontinue or reform the program are facing an uphill battle. However, the fact that a 485-a reform bill passed unanimously through the State Assembly indicates that there is an appetite to fix the program.

In our previous report, we recommended that the state or city government repeal or opt out of 485-a. Short of opting out, we recommended that the program be reformed with increased transparency and oversight and to close the Benderson loophole.

We also noted that the subsidy that inspired 485-a, a New York City program called 421-g, required that subsidized residential units be rent stabilized. With the 2019 expansion of the Emergency Tenant Protection Act from New York City and its surrounding counties to the rest of New York State, adding a rent stabilization requirement could also mitigate some of the worst harms caused by 485-a.