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DAN M. SMOLNIK*

Connecticut's tax on real property has been adopted by the continuum of time as necessary to the public fisc. In 1639, Connecticut adopted the Fundamental Orders, a document that arose from the agreement among the towns of Hartford, Wethersfield, and Windsor and bore more than a passing resemblance to seventeenth century charters of trading companies. What set the Orders apart was that they served to organize a body politic and, hence, became the first democratic written constitution in history. The chain of events set in motion in seventeenth century Connecticut yielded the new nation's Articles of Confederation, and, as centralized tax theory gained hold, the Constitution.

The passage of time has, rather than consolidate local fiscal policy in Connecticut, yet further individuated the several towns in their production of own source revenue. This trend is reflected in the ways that towns have evolved in several observable characteristics, both demographically, such as in age, racial composition, and educational levels, and administratively, examined here through municipal fund balances.

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I conclude my examination with a brief analogy of how municipal voters typically behave to duopolistic, repeated game theory and a proposition that cooperative outcomes would better serve all stakeholders.

I. THE FOUNDATION OF THE PRIMACY OF THE TOWN IN CONNECTICUT

Connecticut has its structural genesis in the primacy of the town. Those roots, in turn, grew from the rise of the town as the social and political focal point of society beginning in the Middle Ages.[1] Historical political economy, had, long before the seventeenth century, when European settlers arrived in what would become Connecticut, established the preservation of the social order and the equality of legal conditions as its unifying priorities, and expressed these not at the national but at the local level.[2] Local government, while, in its modern incarnation, a product of the New World, popularized the word "democracy" and introduced to European settlers the concept of government that was, for the first time in their experience, "weak, cheap, and close to home."[3] Until the ascension of New England town government, the state had precipitated the laws, and arrogated to itself all of the taxes.

The centrality of the state was accomplished beginning in the thirteenth century through the introduction of the notion of freemen—a new entry into the list of social strata—which represented the recently evolved classes of merchants, farmers, landed proprietors, artisans, and knights.[4] These groups had diverse lifestyles, habits, values, and goals, but, as they aggregated in towns over time, developed a unity of legal standing.[5] In other words, the ancient feudal distinctions at law vanished as people collected themselves into interactive communities where they were interdependent for everything from food and furnishings, to defense and information. While this phenomenon rendered the classes politically equal, it did not make them socially equal. Long association eventually evolved an implied rules-based system where admission to the formative democratic culture was determined by those already within its ambit.[6]

1. *See generally* JAMES WESTFALL THOMPSON, AN ECONOMIC AND SOCIAL HISTORY OF THE MIDDLE AGES 702 (1928); GEORGES DUBY, THE EARLY GROWTH OF THE EUROPEAN ECONOMY 69 (Charles Wilson ed., Howard B. Clarke trans., Cornell Univ. Press 1974).

2. *See* ROBERT A. BECKER, REVOLUTION, REFORM, AND THE POLITICS OF AMERICAN TAXATION, 1763-1783 8 (Louisiana State Univ. Press, 1980).

3. CHARLES SELLERS, THE MARKET REVOLUTION: JACKSONIAN AMERICA, 1815-1846 31–33 (1991). Sellers also observes that the word "democrat" did not appear in either French or English until 1789. *Id.*

4. THOMPSON, *supra* note 1, at 779.

5. *Id.*

6. A thoughtful discussion of the rise of the town as a political, social, and commercial locus is had in James Westfall Thompson, *An Economic and Social History of the Middle Ages*. *See generally* THOMPSON, *supra* note 1.

Such admission afforded the entrant the status of *freeman*, who, thereby, was acknowledged as emancipated from any feudal conditions of tenure.[7]

Over time, the notion of *freeman* became interchangeable with that of membership in orderly society and Connecticut's organizing documents reflect the centrality of such membership to the commonwealth. In turn, because it is the population of the town, and they alone, that can establish someone as a freeman, the town's autonomy from any centralized government was protected as inviolate.[8] The Fundamental Orders of 1638-1639, even as they established a single commonwealth out of the three constituent towns, acknowledged no authority over those towns save that of God.[9] While this first constitution creates a General Assembly for administration of the state's affairs, it establishes a clever two-part mechanism for the election of representatives whose duty it was, among other things, to elect a governor. First, the representatives had to have been admitted as "Inhabitants" and "Freemen" by majority vote of the populations their respective towns.[10] Second, those freemen had to have accomplished the additional credential of taking the Oath of Fidelity.[11] That is, the representatives to the General Assembly, limited also to one year terms, were required to be *freemen*, and so acknowledged by their respective towns, although the term received no codified definition in Connecticut until the first General Assembly that also included the Colony of New Haven was convened on October 9, 1662, after the Charter was granted by King Charles II in that same year.[12]

It is worth noting that the Charter of 1662 itself references the status of *freeman* as a qualifying credential for management of what would be formally called the "Governor and Company of the English colony of

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7. WILLIAM JAMES ASHLEY, AN INTRODUCTION TO ENGLISH ECONOMIC HISTORY AND THEORY 19 (4th ed., Longmans. Green, & Co. 1909).

8. CHARLES M. ANDREWS, THE RIVER TOWNS OF CONNECTICUT A STUDY OF WETHERSFIELD HARTFORD AND WINDSOR 82–83 (Herbert B. Adams ed., 1889) ("No greater privilege could be accorded to a town and its inhabitants than that inserted in the first section of the constitution of 1639, that choice of governor and magistrates 'shall be made by all that are admitted freemen and have taken the oath of Fidelity and do cohabitte within this jurisdiction . . . .'" (citation omitted). The magnitude of the autonomy thus conferred on Connecticut towns may be understood in contrast to the mechanism by which Massachusetts established freemen. In that colony, freemen were chosen by the general court itself, thereby effectively disenfranchising any person and, indeed, any town not finding favor with the colonial government. *1628-1641*, *in* 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 117 (Nathaniel B. Shurtleff ed., 1853) ("[I]t is agreed, that none but the General Court have power to choose and admit freemen.") (spellings edited for contemporary readability).

9. CONN. FUNDAMENTAL ORDERS OF 1639, Order 1 ("according to the Laws here established, and for want thereof, according to the Rule of the Word of God").

10. *Id.*

11. *Id.*

12. J. Hammond Trumbull, *Prior to the Union with New Haven Colony*, *in* 1 THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT 384 (Brown & Parsons 1850).

Connecticut, in New England, in America," yet offers no insight into the Crown's meaning of the term.[13] The commonwealth adopted no feudal tenures and, as a matter of law under the terms of the Charter,[14] England had devolved upon its colony a system of government whose qualifications for suffrage explicitly included a credential whose ancient contours had never been fully described.[15] Hence, the same day that the Charter was read aloud in Hartford, the General Assembly passed, as its second general act of law, and proceeding the adoption of the Charter, a definition of "freemen" for purposes of the new Corporation:

> This Assembly doth order, that for [the] future, such as desire to be admitted freemen of this Corporation shall present themsel[v]es with a certificate [u]nder [the] hands of [the] ma[j]or part of the Townesmen where they l[ive], that they are p[e]rsons of civill, peaceable and honest conversation, and that they attained the age of twenty one year[]s and ha[v]e 20[£] estate, besides their person, in the List of estate . . . .[16]

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13. *Charter of Connecticut–1662*, YALE L SCH. LILLIAN GOLDMAN L. LIBR.: THE AVALON PROJECT, https://avalon.law.yale.edu/17th_century/ct03.asp [https://perma.cc/Y3B4-DTWJ]; J. Hammond Trumbull, *From 1665 to 1678*, *in* 2 THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT 3–11. (F.A. Brown, 1852).

14. The Charter explicitly devolved the land of Connecticut to the newly named Governor of the Colony "in free and common Soccage, and not in Capite, nor by Knights Service." *Id.* This device was to enable free alienation and division of the real property by decoupling the tenure underlying it from claims of the crown. However, the very foundation of feudalism was that all tenure of real property remained with the king, no matter what he might say or write to the contrary. *See* MARTIN WRIGHT, INTRODUCTION OF THE LAW OF TENURES 136–37 (4th ed., F. Wingrave 1792) ("it is so absolute a [m]axim, [p]rinciple, or [f]iction of the Law of Tenures, that all the lands in England are holden either mediately or immediately of the King (c), that even the King himself cannot give [l]ands in absolute and unconditional [m]anner, as to set them free from [t]enure.") Hence, the efforts of Charles, as king, while, perhaps designed to render those colonies that were chartered in *free soccage* more valuable and profitable, appear to have been without legal effect. Moreover, the Charter empowers the named Governor and Company to manage, unrestricted, the affairs of the colony as they see fit. In effect, Connecticut was delivered as an independent business, and not as a feudal estate.

15. By the twelfth and thirteenth centuries, the rise of the merchant class and the growth of towns as communal aggregations of persons variously engaged in trade, agriculture, and artisanry was accompanied by the falling away of the former servile tenures and the holding of land and property free of such tenures or obligations to a noble estate. *See supra* note 8 and accompanying text. While knights and landed proprietors lived in the towns alongside such freemen, the equality of the classes was limited to the law and did not extend to social relations. *See* THOMPSON, *supra* note 1; ASHLEY, *supra* note 7. Historically, then, the term freeman implied only the absence of the condition of servility, and not the presence of other qualifying characteristics. Indeed, the concept of freemen labored, from its earliest days, under an imprecise legal meaning. *See e.g.*, HOMERSHAM COX, ANTIENT PARLIAMENTARY ELECTIONS 18 (Longman's, Greene, & Co. 1868) ("*Liberi homines* . . . appears to have been a term of considerable latitude, signifying not merely freemen or freeholders of a manor, but occasionally including all the ranks of society . . . .") (emphasis added).

16. J. Hammond Trumbull, *supra* note 12, at 389.

In a stroke, then, the newly minted leaders of the commonwealth ensured that the power of the towns would remain inviolate, the implied authority of the otherwise centralized colonial government notwithstanding. Because each town was granted unrestricted discretion as to who might be recognized as a freeman under the new law, the leadership of the colonial government could be nothing if not derivative of the will of the towns. Given the one year terms of the Governor, the Deputy Governor, the Assistants, as well as the representatives of the several towns, the state government was effectively constrained to ministerial duties.[17]

Fast upon the acknowledgment of the supremacy of the towns was, of course, the need for the towns to be able to extract the means to maintain their autonomy. That could come only from the power to tax.[18]

A. *The Towns Take Over*

Local revenue responsibility provides both a trusted and a transparent fiscal mechanism. What it does not provide however, is uniformity. We observe in application that each town's fiscal priorities vary significantly from each other and that voters in some towns demand certain municipal amenities while voters in other towns demand other, more, or fewer of

17. The initial one-year term of the Governor was provided in Order 1 of the Fundamental Orders and reelection delimited by Order 4 stating "no person [may] be chosen Governor above once in two years." CONN. FUNDAMENTAL ORDERS OF 1639, Order 4; *Fundamental Orders of 1639*, YALE L SCH. LILLIAN GOLDMAN L. LIBR.: THE AVALON PROJECT, https://avalon.law.yale.edu/17th_century/order.asp; s*ee also* CONN. CONST. of 1818, art. VI, § 1 (1836) (providing for a one-year term for the governor and other constitutional officers). This was later extended to a two-year term in the constitution at Article XXVII, adopted in 1884, and further extended to a four-year term in Article XLV, adopted in 1948. CONN. CONST. of 1818, art. XXVII (1884); *id.* art. XLV (1948).

18. Early in Connecticut's colonial history, the fiscal autonomy of the towns began to assert itself through the calculated restraint of the General Court. For example, at the session of May 10, 1677, the General Court ordered that towns pay for their respective schools and any town not paying for a local school should pay a fine to the town that is providing the required education. However, the General Court added this critical caveat to what amounted to a school tax:

> where schooles are to be kept in any towne, whither it be County Towne or other, what shall be necessary to the mayntayning the charge of such schooles it shall be raysed upon the inhabitants by way of rate, *except any town shall agree upon som other way to rayse the mayntenance of him they shall imploy in the afoarsayd worke, any order to the contrary notwithstanding.* (spelling in original) (emphasis added). J. Hammond Trumbull, *supra* note 13, at 312.

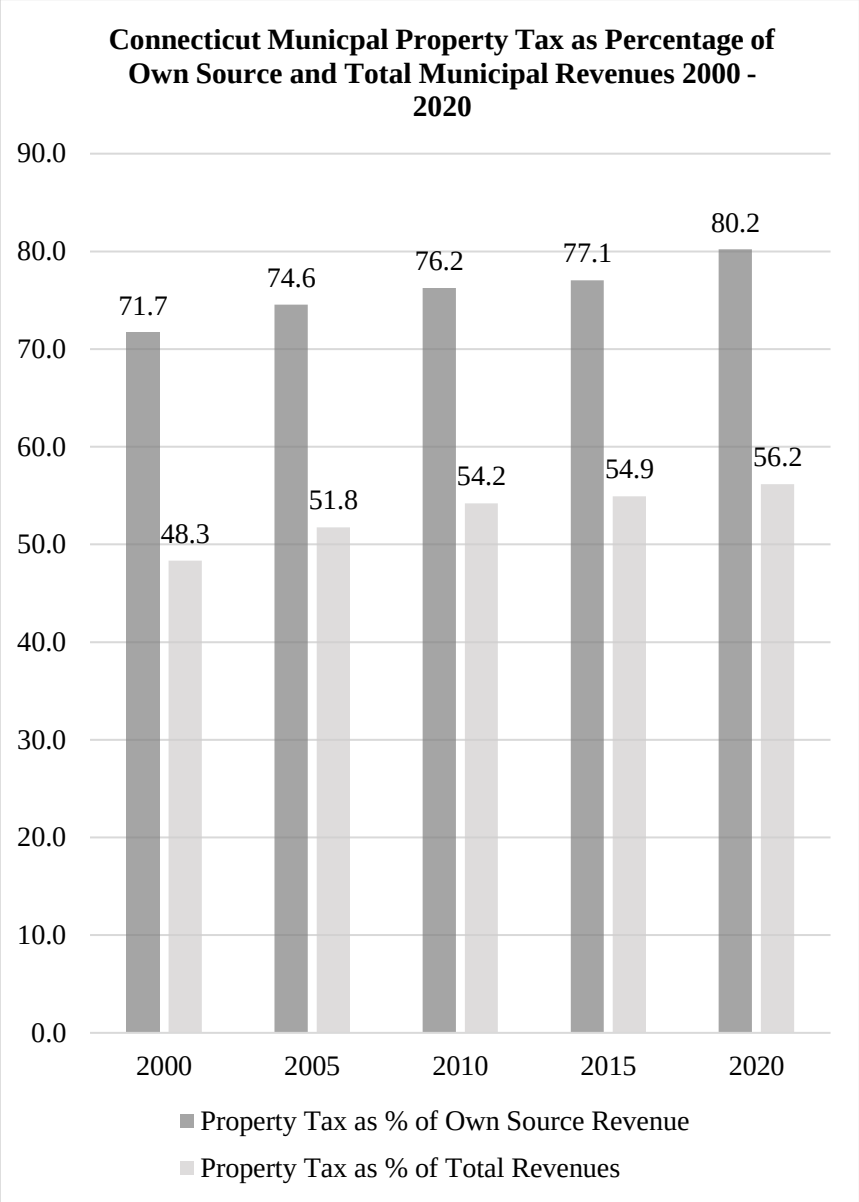
With this excepting clause, the General Court acknowledged the public concern over potential legislative overreach into the separate fiscal affairs of what was then a localized and agrarian economy. *See also infra* pp. 109–110 (discussing the three imperatives of local tax policy described by David Brunori). It was the third imperative, remonstrating against local tax policy effecting redistribution of wealth, that the General Court of 1677 apparently sensed in adding its excepting clause to the otherwise redistributive school tax.

such amenities.[19] Over time, Connecticut municipalities have come to rely progressively more heavily on revenue from property taxes, rendering, thereby, the state's 169 municipalities increasingly fiscally disengaged from the state government. Figure 1 illustrates both the speed and magnitude of the towns' growing dependence on financing their respective responsibilities through property tax.[20]

19. *See generally* Charles Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416–24 (1956).

20. *See infra* Figure 1.

Figure 1[21]



21. Figure 1 is expressed in real 2020 dollars and has been calculated by the author. Data was derived from *Annual Survey of State and Local Government Finances*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/gov-finances.html [https://perma.cc/HPM4-ZMY7] (June 29, 2023).

Local control in Connecticut includes the abundant and varied array of town amenities, which obscure how the lack of uniformity of tax incidences have a corrosive effect on social and economic equity in our state. Some towns vote for increased tax assessments to improve schools, parks, and infrastructure, while the voters of other towns prefer to suppress tax increases even at the cost of local amenities. These antipodal economic forces exacerbate the already dramatically regressive incidence of the property tax in Connecticut.

This lack of uniformity, to be sure, has not provided the real property tax a robust base of political support. Its qualities of apparently arbitrary inequity have long dogged the tax as a fiscal tool:

> *Practically*, the general property tax as actually administered is beyond all doubt one of the worst taxes known in the civilized world. Because of its attempt to tax intangible as well as tangible things, it sins against the cardinal rules of uniformity, of equality and of universality of taxation. It puts a premium on dishonesty and debauches the public conscience; . . . [T]he general property tax is so flagrantly inequitable, that its retention can be explained only through ignorance or inertia.[22]

It is this very inequity on which I commenced this study in the first part of this essay, and which I shall extend into some of its other dimensions in this second part.[23]

II. CONNECTICUT TOWNS HOLD VARYING ROLES IN DELIVERY OF SERVICES

Town governments can be thought of as delivery systems that provide locality-specific public goods and services.[24] Payment for those goods and services are, in Connecticut, controlled by a single statutory variable: the estimate of the current expenses of the departments of the town for the ensuing year.[25] No statutory provision is made for capital accumulation.[26] Rather, towns are each obliged to anticipate their respective expenses (including debt service), which system necessarily yields a derivative budgetary process that is, by definition, politically fraught.

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22. EDWIN R. SELIGMAN, ESSAYS IN TAXATION 61 (5th ed. 1905).

23. The first part of this study appears as Dan M. Smolnik, *The Connecticut Municipal Property Tax: Its Roots and Branches*, 71 TAX LAW. 1011 (2018).

24. The availability of goods and services is often viewed as a necessary part of a virtuous cycle of municipal growth and wealth creation, as municipalities increasingly seek to attract capital and investment and the ambitious and talented people who follow, and are followed by, those resources. *See e.g.*, RICHARD FLORIDA, THE NEW URBAN CRISIS 14 (2017) ("All of this attracts still more industry and talent."); Tiebout, *supra* note 19, at 420 ("this total demand will approximate the demand that represents the true preferences of the consumer-voters").

25. CONN. GEN. STAT. §12-122.

26. *See id.*

Local government has three imperatives within this statutory framework:

- Provision of the public services demanded by its citizens. The rubric of public services, is, of course, the principal variable on which the town budget vote turns.[27] For example, decisions on a municipal budget might include debate on whether public service should include the installation and maintenance of a swimming pool, especially when juxtaposed on the budget priority list with competing demands such as finding resources for schools, public safety, or town administrative staff.
- Local governments must promote, create, and preserve the wealth of their residents. This includes not only the more conspicuous measures of local wealth such as real property values, but also avenues to wealth such as educational and career opportunities.[28] Voters are acutely aware of the growth and security of these metrics.
- The final imperative of local government requires it to meet the first two requirements without pursuing any redistributive policies. Unlike with state and federal income tax, local real property tax policy is not in a position to attempt to restructure wealth without violating either or both of the first two requirements.[29]

The combination of these imperatives will, naturally, express itself in a variety of ways, all depending on the agenda of the body politic.

The real property tax is necessarily a reflection of the symbiotic relationship between the town and its residents. In many ways, it is a case study of government, writ small. The implementation of such a tax is generally understood to require ten discrete steps:[30]

i. Define taxable property. Often, a parcel of real estate represents a bundle of rights of several interest holders such as surface leases, mineral rights, easements, and mortgages. Tax uniformity requires that the taxable interest be taxed once and only once.

ii. Define value. Precisely how a property right is to be valued must be defined in such a way that it does not vary from one town to the next. Fair value is the standard in Connecticut by which real property is to be appraised for tax purposes.[31]

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27. *See* John H. Mikesell, *Financial Administration in Local Government: An Overview*, *in* LOCAL BUDGETING 15 (Public Sector Governance & Accountability Series No. 3997, 2007) (Anwar Shah ed.) ("Local governments can make an important contribution to public well-being through the execution of government policies and the delivery of public services that are important to the local citizenry.").

28. DAVID BRUNORI, LOCAL TAX POLICY: A PRIMER 27–32 (4th ed., Rowman & Littlefield 2020).

29. *Id.* at 27–32.

30. These ten steps for implementation of a real property tax are adopted from GLENN FISHER, THE WORST TAX? A HISTORY OF THE PROPERTY TAX IN AMERICA 80–81 (1996).

31. CONN. GEN. STAT. § 12-63(a) requires the towns to assess non-excepted real property at fair market value. *See* Redding Life Care, LLC v. Town of Redding, 61 A.3d 461, 477 (Conn.

iii. Define jurisdiction to tax. The jurisdiction to tax real estate is determined by its location. Uniformity of taxation requires that all real property have one and only one location.[32]

iv. Establish a tax date. Imposition of a fixed date for tax assessment is necessary for uniform taxation and to ensure that property, especially mobile property, is needed to ensure that all taxable property is taxed, and only once.[33]

v. List taxable property. All taxable property must be listed and assigned to the appropriate jurisdiction.[34]

vi. Value every piece of taxable property. The necessity of comprehensive valuation ensures that the grand list reflects uniformity and, perhaps more importantly, fairness.[35] This goal is complicated by the fact that assessment involves a political component and pressure to keep valuations low. Connecticut, like many states, has an equalization process to help ensure that assessments do not become a competitive race to the bottom.[36]

vii. Levy taxes. While it may appear intuitive, the adoption of the legal authority to impose the tax is a necessary predicate to everything that follows.[37]

viii. Compute tax rates and tax bills. The tax rate, or mill rate, is calculated as $1 for each $1,000 of assessed value.[38]

ix. Collect taxes. In Connecticut, as elsewhere, taxes are levied *in rem* and clear title to real property cannot be passed until the taxes are paid.[39]

2013) ("In short, the true and actual value of a property is simply the 'fair value' of the property as determined by the assessor. As long as the assessor appraises the property in accordance with our laws, including the Uniform Standards of Professional Appraisal Practice, the assessed value represents the true and actual value of the real property for taxation purposes."); *see also* CONN. AGENCIES. REGS. §§12-62i-3, 12-62i-4 (2015).

32. CONN. GEN. STAT. §12-64(a) restricts municipal real property grand list entries to the town where the property is situated.

33. Connecticut has established by statute October 1 as a uniform assessment date for all municipalities. CONN. GEN. STAT. §12-62a(a).

34. CONN. GEN. STAT. §12-62a(b) explicitly calls for municipalities to make a comprehensive assessment of the taxable property in their respective jurisdictions.

35. CONN. GEN. STAT. §12-62a(b); *see* Lerner Shops of Connecticut, Inc. v. Town of Waterbury, 193 A.2d 472, 480; 151 Conn. 79, 94 n. 3 ("[T]he terms actual valuation, actual value, market value, market price and fair value are synonymous. Probably, the term fair value is the preferred one to use, since it emphasizes the result to be achieved rather than the means by which that result is to be obtained.") (internal citations omitted).

36. CONN. GEN. STAT. §§12-55(b), 12-111(a), 12-64(a) (all non-exempt property "shall be liable to taxation at a uniform percentage of its present true and actual valuation."); *see also* Tuohy v. Town of Groton, 207 A.3d 1031, 1048–49 (Conn. 2019).

37. CONN. GEN. STAT. §12-62(b)(1).

38. The setting of the property tax rate is, generally, left to the legislative body of the town. CONN. GEN. STAT. §12-122.

39. CONN. GEN. STAT. §12-172.

x. Distribute the tax proceeds to the local government.[40]

These steps inevitably expose the municipal property tax collection process to political influence. In particular, fair value of real property is a routine matter of dispute within towns.[41] The authority of each individual town to decide rates, and, hence, fairness, according to its political will creates measurable distinctions as among the towns with regard to the characteristics of their respective populations.

It is worth bearing in mind that, for 2010 and 2019, eleven of the twenty towns with the highest mill rates, *ex* of the cities, remained on that list at both the beginning and end of the period, whereas seventeen of the twenty towns with the lowest mill rates remained on that list. Low property tax levels demonstrate appreciable persistence in Connecticut.

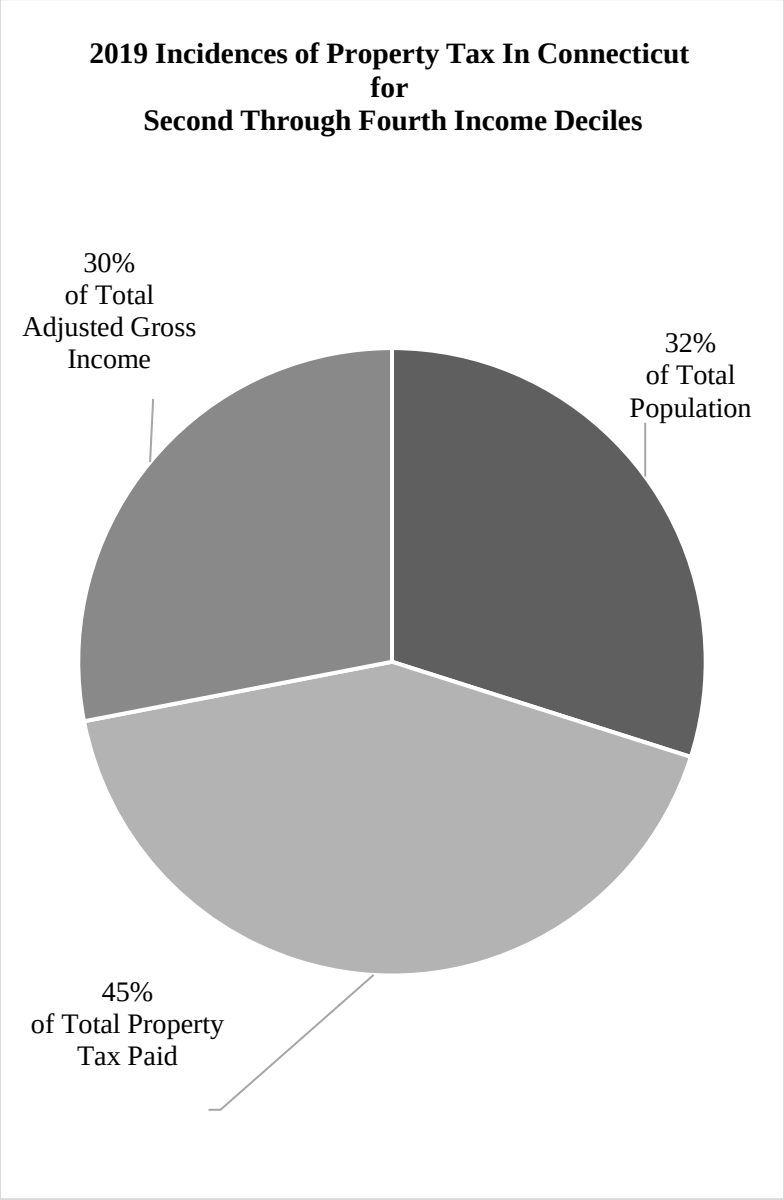
The incidences of Connecticut's property tax system tell the tale in Figure 2. Thirty two percent of the population, who earn thirty percent of the income, pay fully forty five percent of the property tax.[42] This regressive effect is the result of deliberate choices, which manifest in residency selections and at the ballot box.

40. CONN. GEN. STAT. §12-167 ("Each tax collector, at the end of each fiscal year of his town, city, borough, district or other municipality, shall forthwith deliver [to the municipal government authority] a certified statement containing… the total amount collected on each rate bill.").

41. JOAN YOUNGMAN, A GOOD TAX: LEGAL AND POLICY ISSUES FOR THE PROPERTY TAX IN THE UNITED STATES 29 (2016) ("Fairness cannot be reduced to a single measure, such as the distribution of the tax according to taxpayer income. It touches on an enormously broad array of issues, including the definition of the tax base, as in the fairness of taxing unrealized gains or illiquid assets, as well as the rate of tax. It involves procedure and administration, the manner in which the tax is assessed and collected, and the availability of an impartial appeals system to address taxpayer objections. It addresses social and cultural values, such as treatment of families, long- time residents, and the elderly.").

42. *See infra* Figure 2.

Figure 2[43]



43. Data from *Connecticut Tax Incidence Study—Tax Year 2019*, DEPARTMENT OF REVENUE SERVICES (Feb. 28, 2022), https://portal.ct.gov/-/media/DRS/Tax-Incidence/Connecticut-Tax-Incidence-Study-TY2019.pdf [https://perma.cc/U6TA-7G3R].

In Connecticut, there is an unmistakable trend of urbanization, with the populations of the five largest cities accounting for .3% more of the total state population in 2019 than in 2010.[44] The corollary of this trend is, of course, that some towns are losing population. This, as well, implies that changes in the demographics of Connecticut towns will necessarily express themselves at the ballot boxes, and in their associated budgets. The balance of this paper briefly examines the relationships that manifest between some of these demographic changes and the trends in those towns' respective real property tax rates, as well as considers other factors that appear to be at work in local property tax trends.

A. *Age and Mill Rate Changes*

To measure correlation, I use the Pearson Probability Coefficient, which compares one variable with another and measures the relationship between them over several events. A result of -1 indicates a strong inverse relationship whereas a correlation of 1 shows a strong positive relation between the variables. This figure is calculated as

$$R = \frac{N\sum xy - (\sum x)(\sum y)}{\sqrt{[N\sum x^2 - (\sum x^{2})][N\sum y^2 - (\sum y)^2]}}$$

Where:
N = number of pairs of scores
$\sum_{xy}$ = sum of the products of paired scores
$\sum_{x}$ = sum of x scores
$\sum_{y}$ = sum of y scores
$\sum_{x}^{2}$ = sum of squared x scores
$\sum_{y}^{2}$ = sum of squared y scores

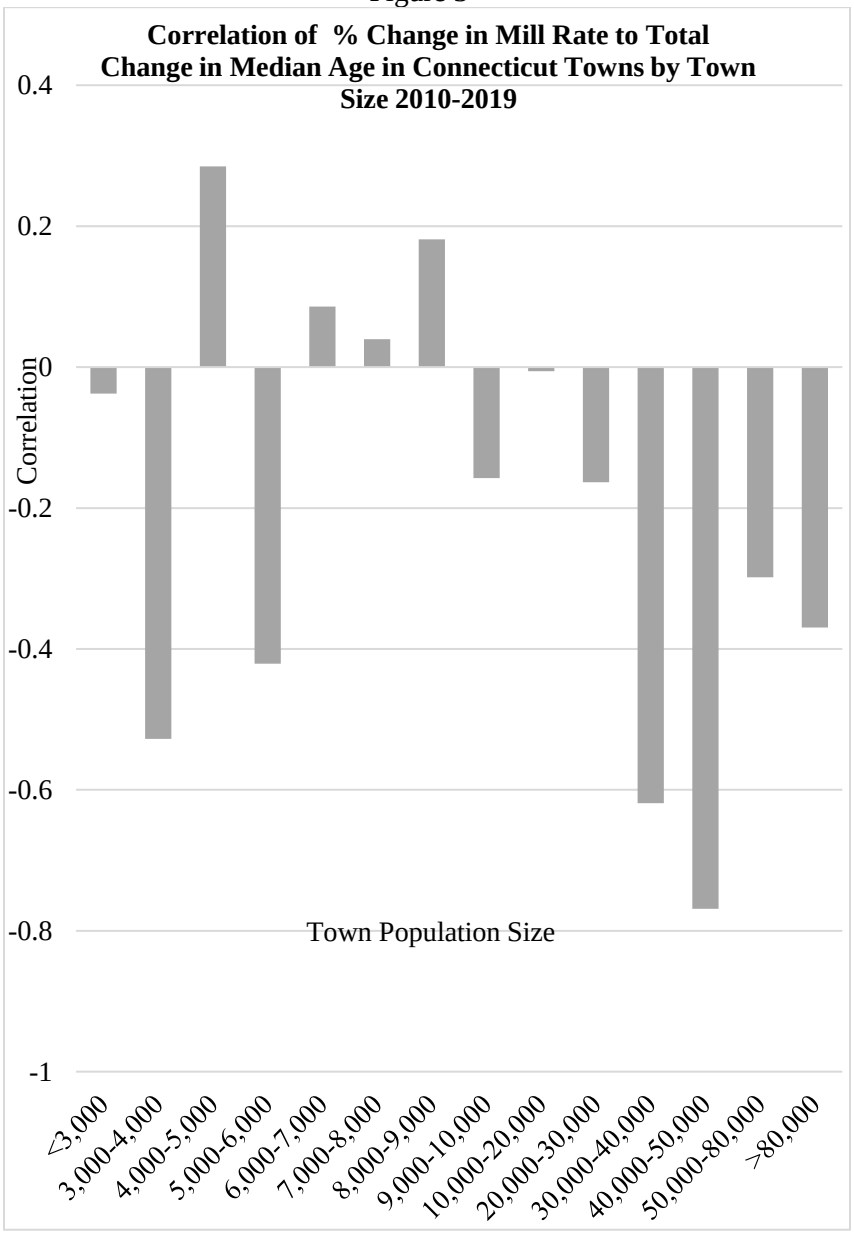
This correlation, while not implying causation, does effectively reveal relationships among the variables tested.

When I test percentage change in mill rates against median age in towns and sort them by population size, a bimodal trend emerges, shown in Figure 3, that that may illustrate important voter preferences.[45] Voters of moderate incomes in small towns prefer and vote for lower tax rate increases.

44. These calculations are drawn from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023). The five largest cities by population are Bridgeport, New Haven, Stamford, Hartford, and Waterbury. *Id.*

45. *See infra* Figure 3.

Figure 3[46]



46. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Not surprisingly, towns with more rapidly aging populations are more reluctant to adopt increases in real property tax rates. This relationship appears most clearly in towns with populations in the 3,000 to 4,000 and 20,000 and above levels. Among towns of populations of 4,000-5,000 and 6,000 to 9,000, where I observe the correlation between rate of age increase and rate of mill rate increase turn positive, it is notable that growth in household incomes exceeded the statewide median by around two percentage points. Among those with populations of 10,000 to 20,000, where any apparent relationship between age and mill rate vanishes, the median household income growth for the period was over two percentage points lower than that of the state overall. Among the towns with population ranges up to about 6,000 and above 20,000, where the negative correlation between age and mill rate growth is most pronounced, household income growth rates exceeded two percentage points above that of the state.

Whether this phenomenon is derivative of the population sector effectively left behind as younger, higher earners move to the cities is uncertain. Given the bimodal distribution of aging and mill rate changes, it is entirely plausible that rate changes in smaller towns have a dependent variable more associated with age while the changes in the cities represent income growth rates as the dependent variable and that the two groups each seek to maximize different values. However, towns with smaller populations especially around 3,000 to 4,000 and 5,000 to 6,000 demonstrate a positive rate of age increase and rate of mill rate increase. It is also notable that growth in household incomes here exceeded the statewide median by around two percentage points. This suggests a variety of fiscal engines at work, not the least of which is flexibility in spending decisions arising from the availability of cash and not necessitating tax increases to accomplish capital goals.

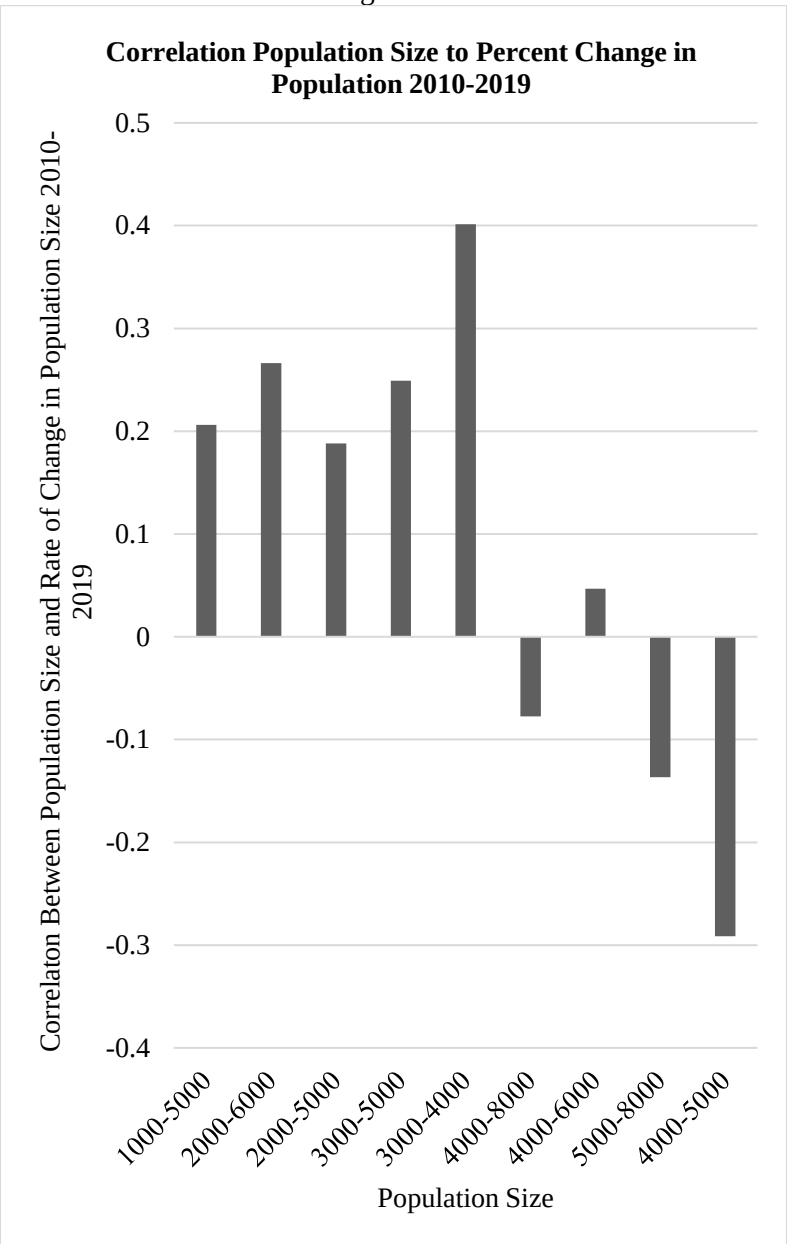
B. *Population Size, Age, and Education*

Population size brings with it another powerful demographic tool, especially for Connecticut.

Figure 4 compares population size to rate of population change, expressed as a percentage.[47] It readily emerges that towns with populations in the 3,000-4,000 person range experienced a meaningfully higher relationship between population size and rate of population loss than that experienced within other population size cohorts among the smaller towns.

47. *See infra* Figure 4.

Figure 4[48]



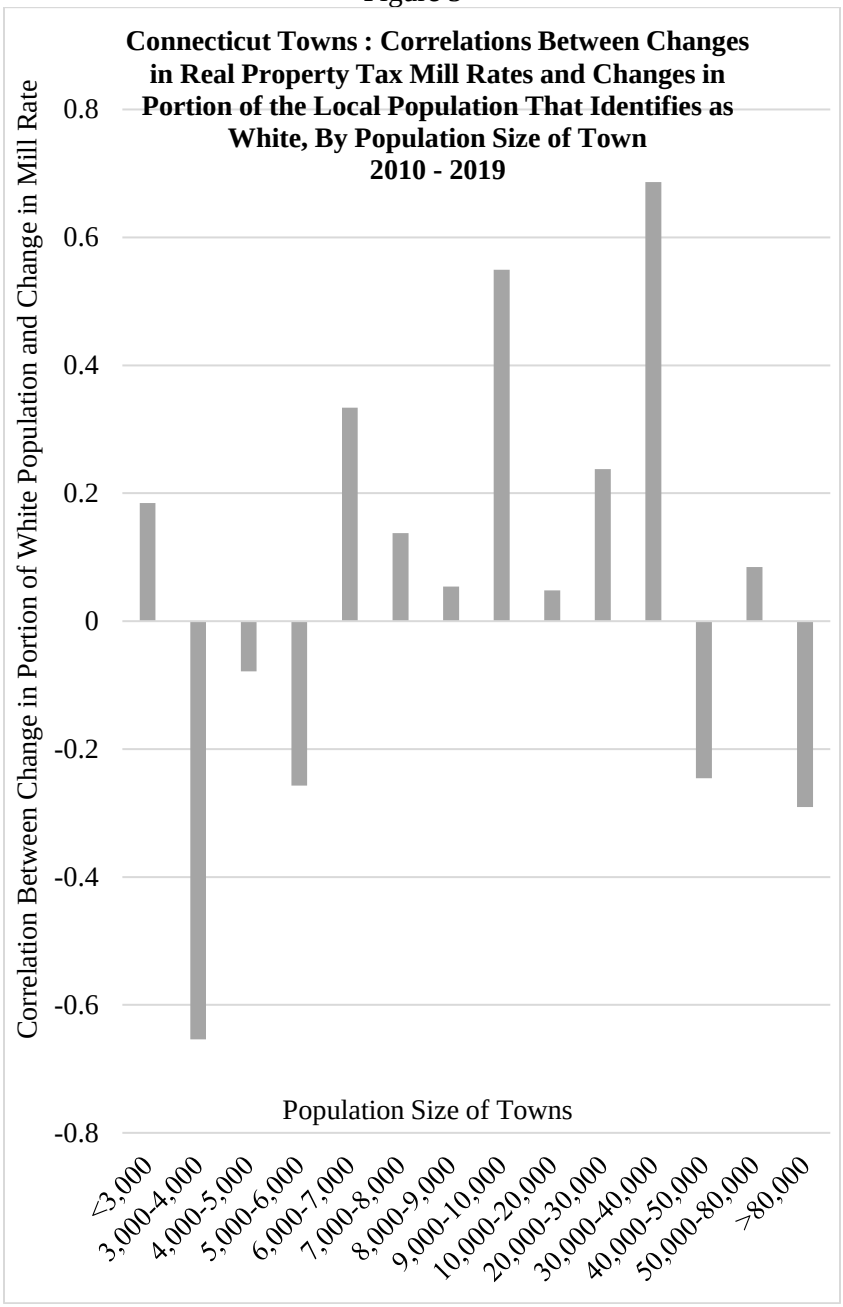
48. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

When I test various town population size cohorts within the 3000-5000 person range, I observe that towns with populations of roughly 3000 to 4000 residents demonstrate the most significant relationships between population size and likelihood of losing population. This population cohort experienced nearly 8% of the state's population losses for the period, yet represents only 1% of the state's total population.

When I correlate the rate of change in the mill rate with the percentage point change in just the white population for the several towns, I find only a tenuous general relationship across all population sizes, as shown in Figure 5.

However, among towns with smaller populations especially around 3,000 to 4,000 and 5,000 to 6,000, a meaningful negative correlation appears between an increasing share of the population that identifies as white only and the rate of increase in the real property tax rate. In other words, towns within these size cohorts whose populations are becoming less racially diverse demonstrate a disposition against raising property tax rates.

Figure 5[49]



49. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Some observations can be made. First, a substantial correlation between increasing white population share and slowed property tax rate increases occurring in towns with a population size of about 3,000 to 6,000. Not incidentally, the cohort of towns with populations in the range of about 3,000 to 4,000 comprise less than 1% of the state's population yet lost population close to 8% of the state's total loss for the period. Second, among towns with populations from about 6,000 through 40,000, a positive correlation exists between growth in the share of the population identifying as white and larger increases in mill rates. Lastly, the median change in mill rates for the cohort of towns in the 3,000-4,000 population range was, for the period, only about 96% of the median change for all the towns in the state

With the undeniable upward pressure on mill rates from 2010 through 2019,[50] towns whose mill rate increases were slowed, for whatever reason, are conspicuous in our study. Hence, it is notable that among the 50 towns with smallest changes in their mill rates from 2010 through 2018, no fewer than 16 of those towns also experienced the largest upward changes in their shares of population identifying as white only, and not Hispanic.

On a larger scale, including all of the towns in the state, I find age and education levels demonstrate robust inverse correlations with increases in mill rates.

As the property tax is effectively a tax on wealth, viewing it as a redistributive tax between generations, as well as from wealthy to the poor, is entirely fair. It is not surprising, then, to find that towns with older populations demonstrate more reluctance to raise mill rates than towns with younger populations.[51]

Age is a sturdy inverse analogue to mill rates and is becoming measurably more so. In 2010, the median age of a Connecticut town held a correlation coefficient of -.3905 to its mill rate, meaning that a higher the median age in a town was meaningfully associated with a lower mill rate.[52] That relationship trended upward in 2019 to a negative correlation of -.5287, demonstrating that higher age had become even more of a brake on rising property tax rates.[53]

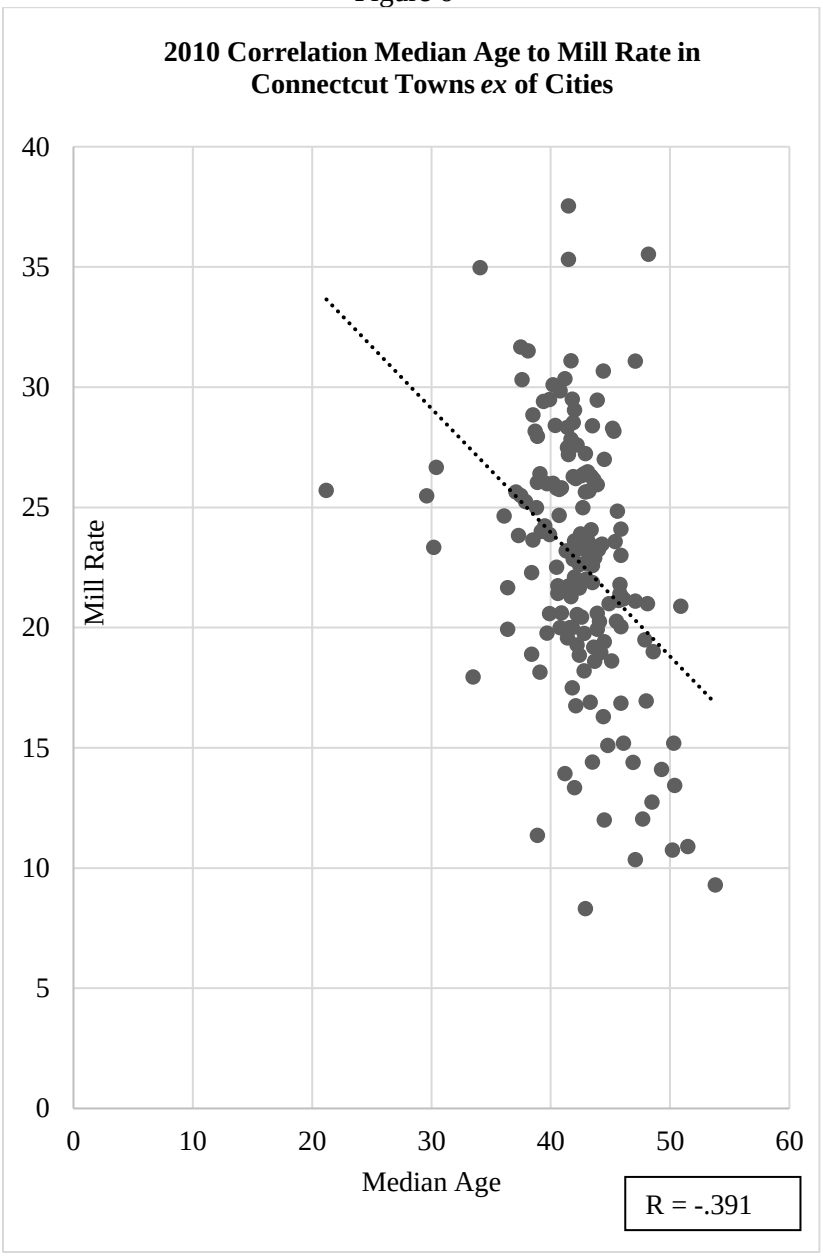
50. Average mill rates among Connecticut towns, *ex* of the cities, doubled during this period.

51. It has been demonstrated that wealthier and older voters prefer lower taxes on wealth. *See* TORSTEN PERSSON & GUIDO TABELLINI, MACROECONOMIC POLICY, CREDIBILITY AND POLITICS 169 (1990).

52. *See infra* Figure 6.

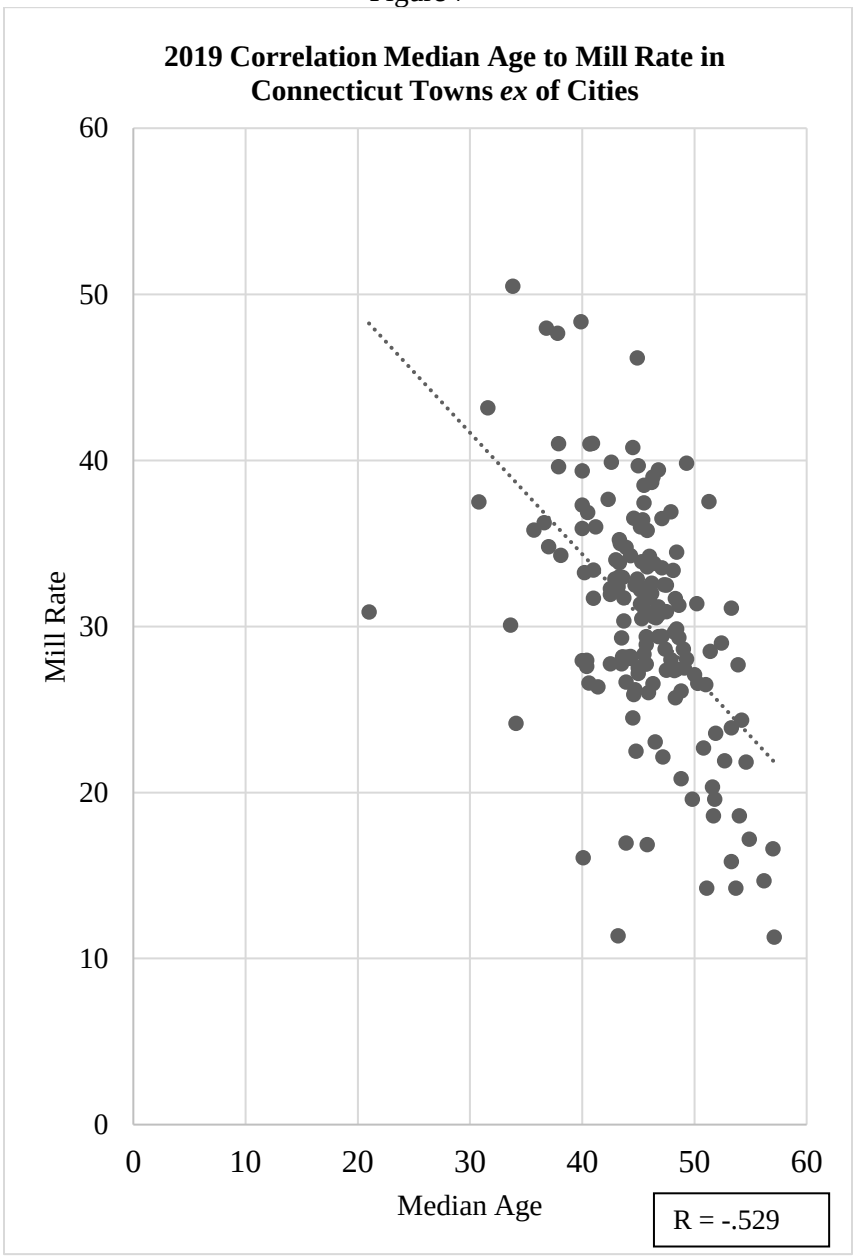
53. *See infra* Figure 7.

Figure 6[54]



54. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 7[55]

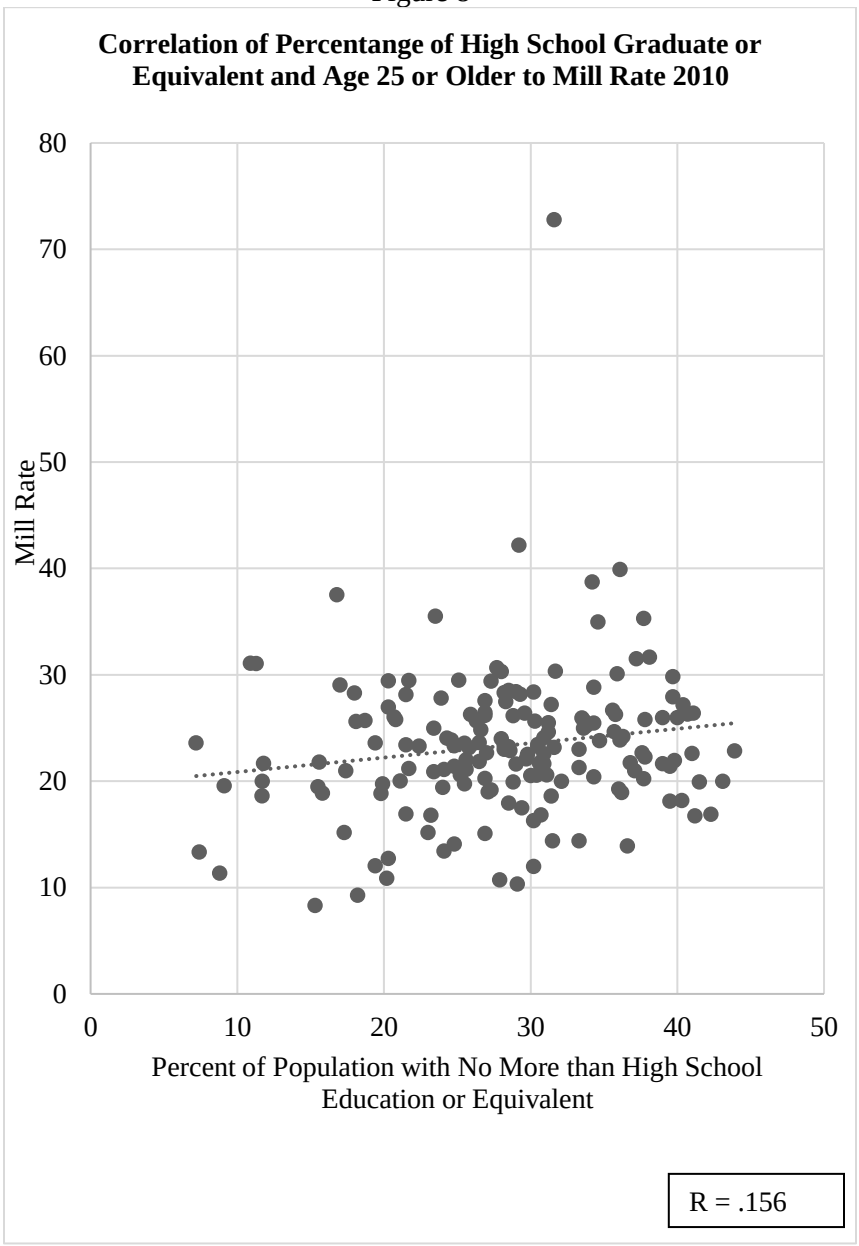


55. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

With the exception of population cohorts with no more than a high school diploma, education also appears to have an attenuating effect on property tax rates. Mill rates appear generally indifferent to the percentage of a town's population with a high school education or less in 2010.[56] In 2019, however, the relationship becomes significantly more robust, suggesting a broader willingness to pay higher property taxes among towns with higher densities of population with this level of education.[57]

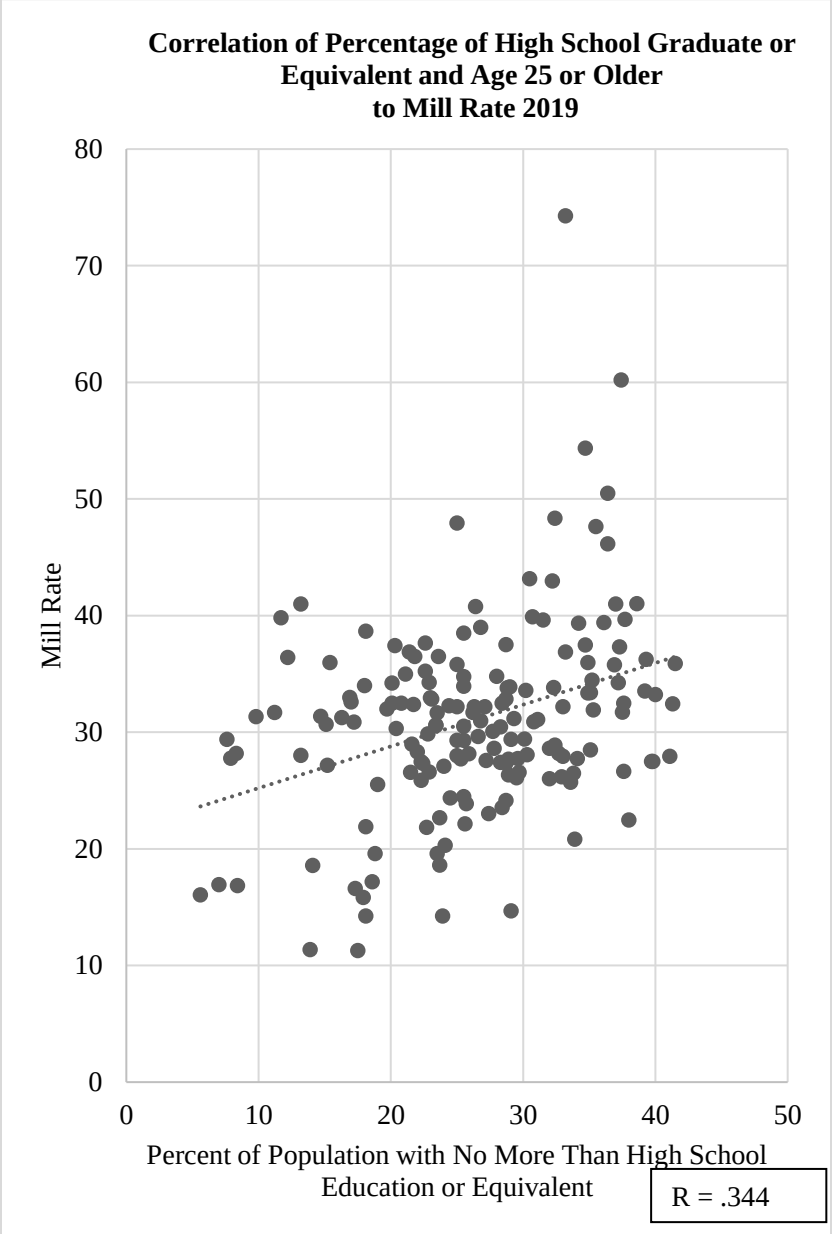
56. *See infra* Figure 8.
57. *See infra* Figure 9.

Figure 8[58]



58. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 9[59]

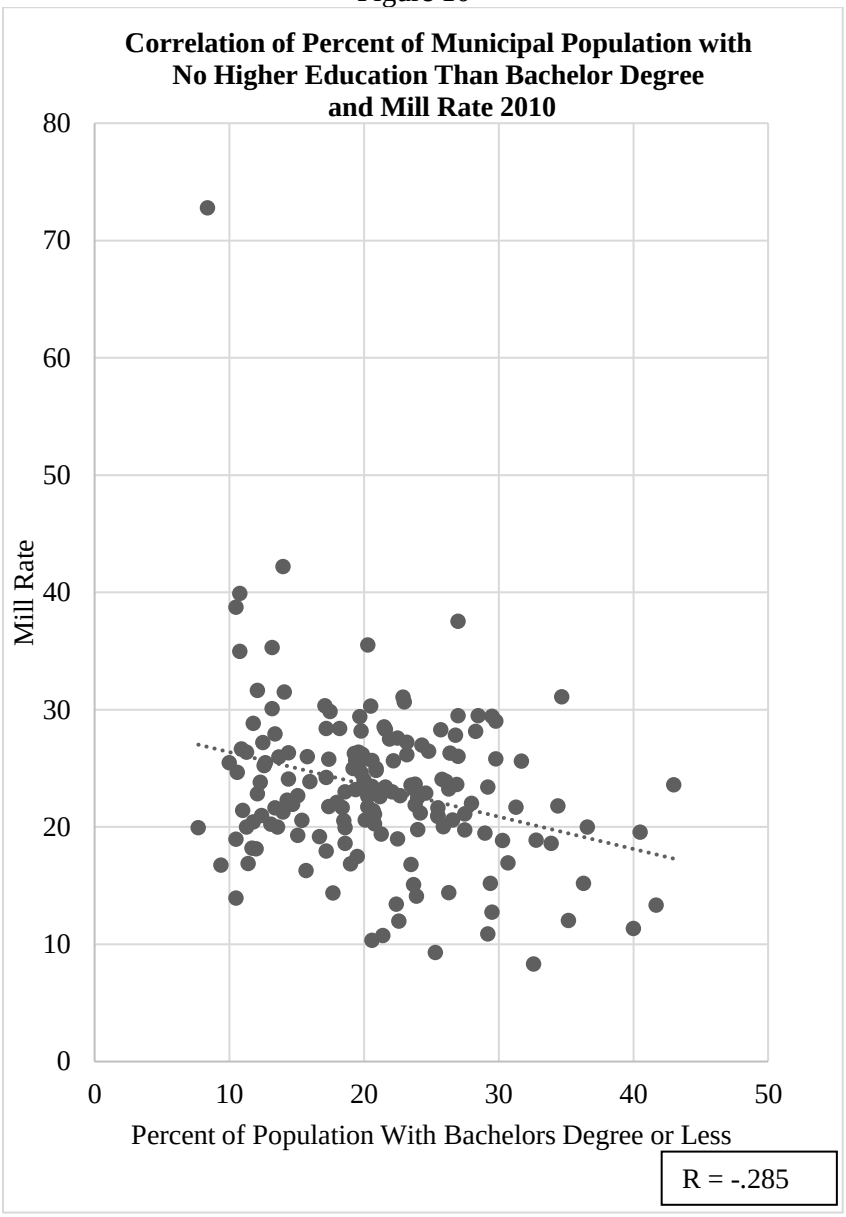


59. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 10 illustrates that towns with higher percentages of their population with a bachelor's degree demonstrate a negative correlation with property tax rate levels.[60] This correlation increases, negatively over time, indicating that education level is inversely related to tax rates. By 2019, this relationship had become more pronounced, with the correlation between education level and mill rates turning substantially more negative.[61]

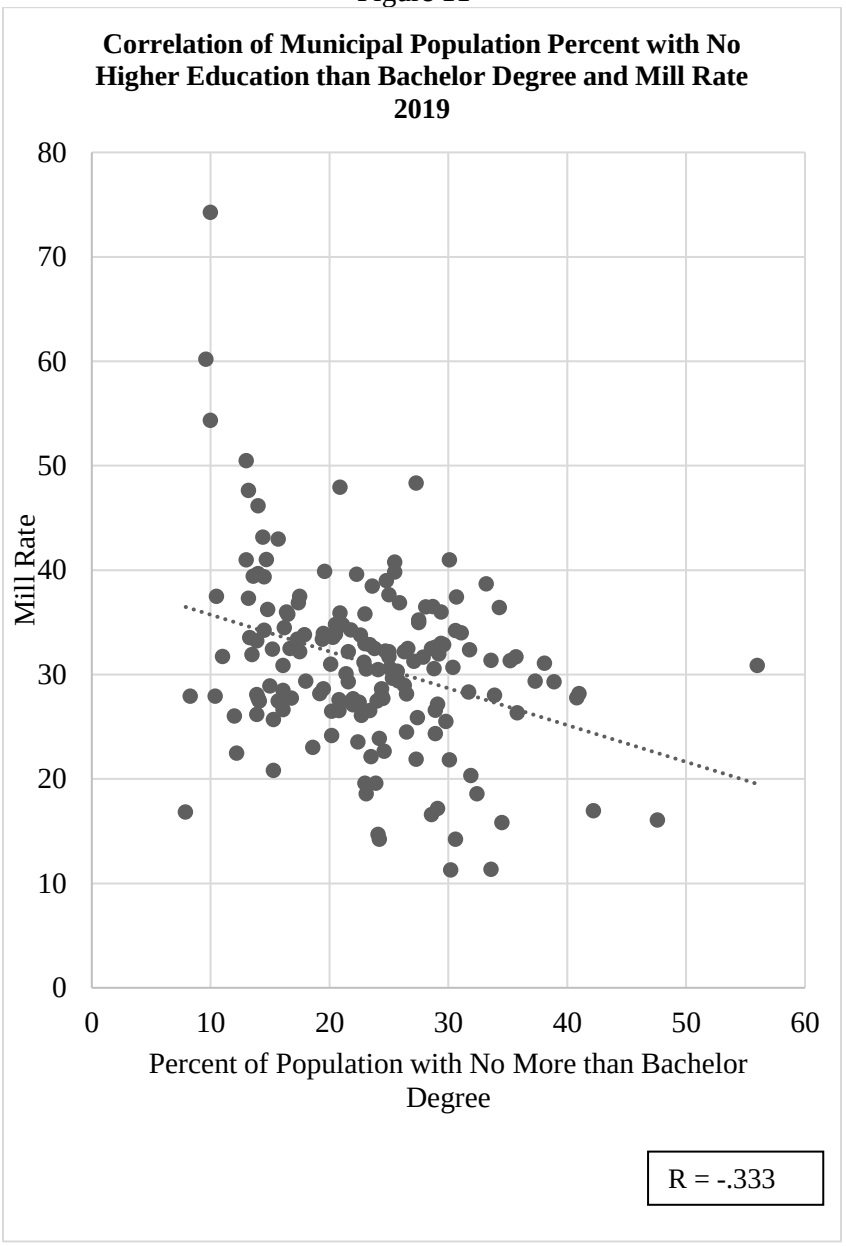
60. *See infra* Figure 10
61. *See infra* Figure 11

Figure 10[62]



62. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 11[63]

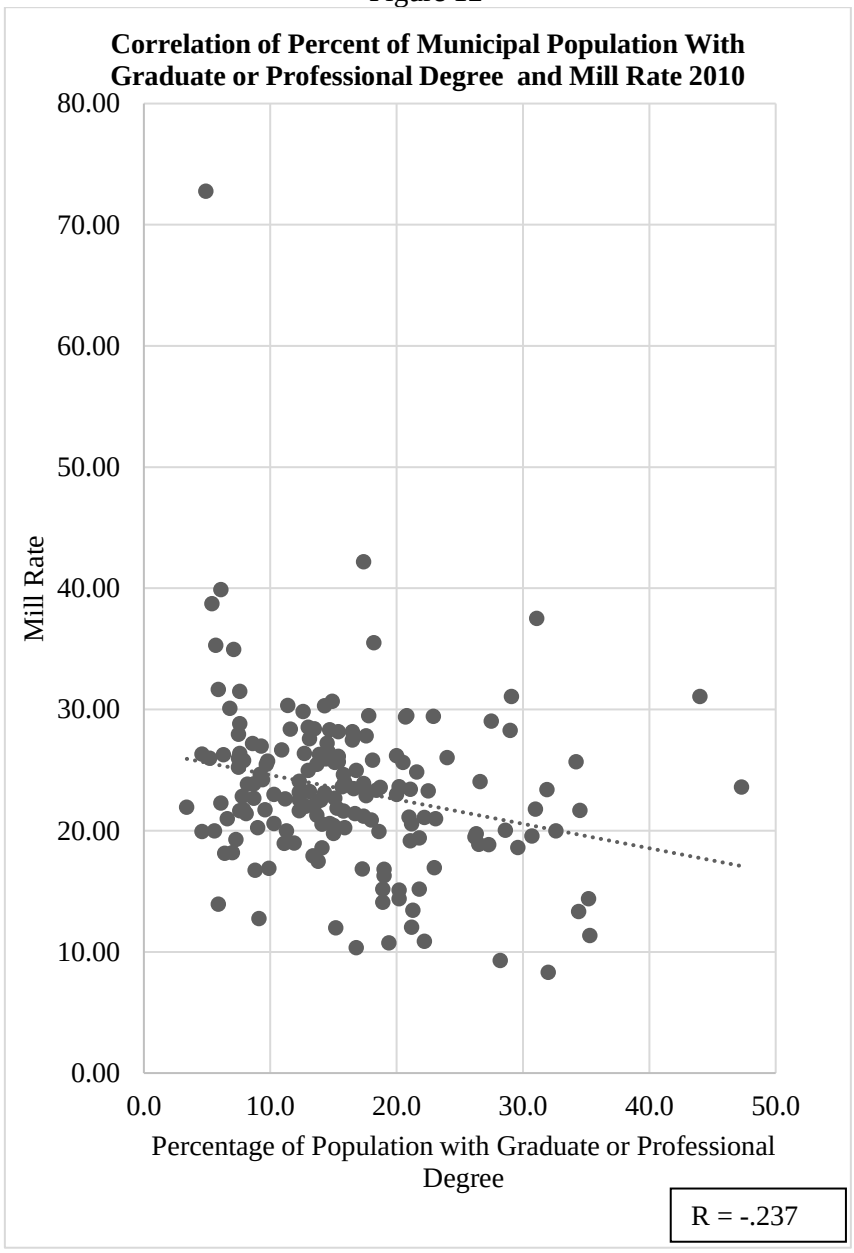


63. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Taken further, I observe in Figure 12 that towns with higher concentrations of persons with graduate degrees, in 2010, had mill rates that were somewhat negatively correlated to concentrations of persons with such higher education.[64] By 2019, however, the inverse relationship had grown to -.375 and towns with higher concentrations of voters with graduate degrees became more closely correlated with lower property tax rates.[65]

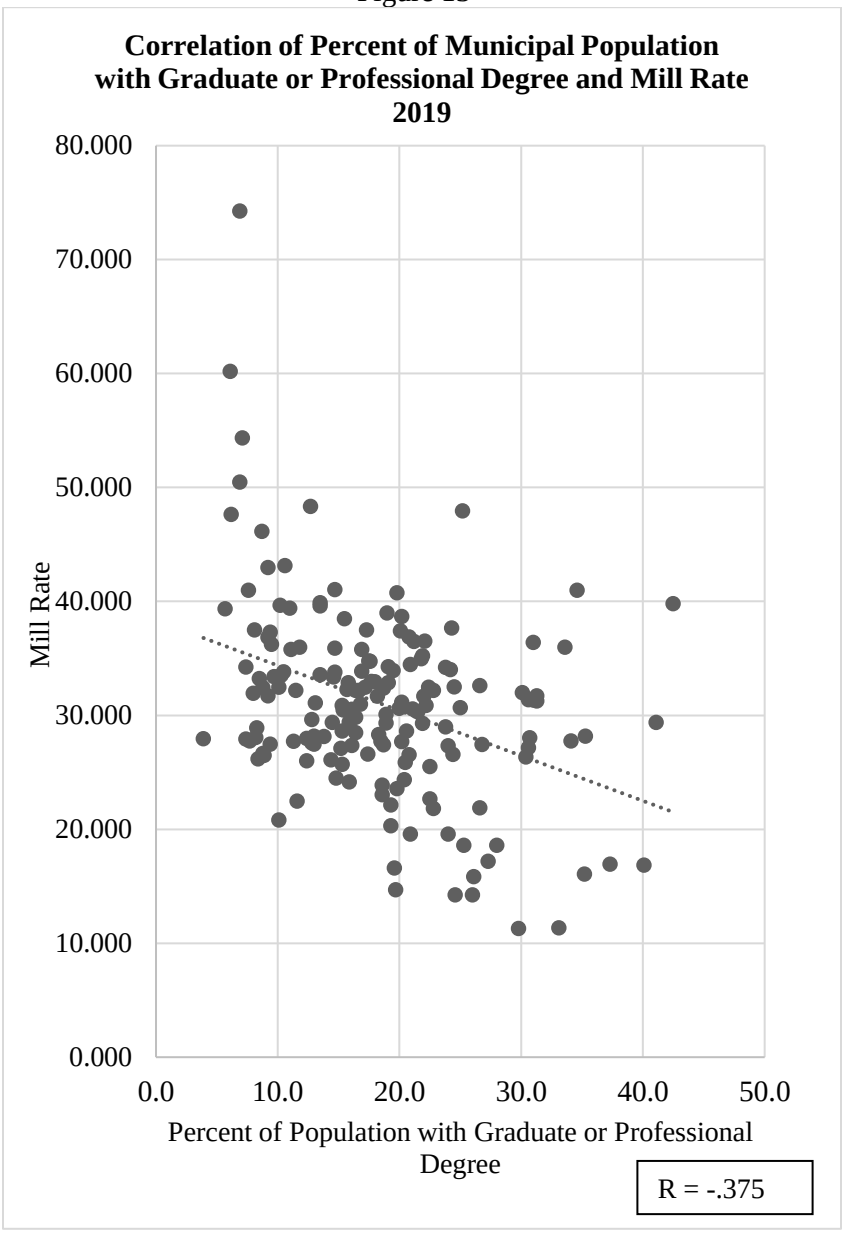
64. *See infra* Figure 12.
65. *See infra* Figure 13.

Figure 12[66]



66. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 13[67]



67. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

This progression from education levels appearing less related to tax levels in 2010 to those tax rates being somewhat positively correlated to less education in 2019 and negatively correlated in 2019 for towns with more college educated voters suggests something other than broadly representative voter values being enacted as policy.

Resident opposition to initiatives that may affect their wealth is, however, not the only driver of property tax rates.

C. *Fund Balances Have an Important Relationship to the Mill Rate*

Thus far, I have examined some influences on the local mill rate that are generally affected by the residents. Age, population size, and education are all, to varying extents, attributes of local residents. Fund balances, however, are not typically the direct outcome of direct voter decisions. They are, rather, the product of administrative decisions.[68] The autonomy of local government in New England is especially manifest in this synergistic relationship between town residents and local government.

Municipalities follow a reporting model known as fund accounting, with the general fund comprised of several specific funds. Each fund is a self-balancing account recording cash and other resources. Local governments typically have only one general fund, which handles most government functions, such as public works and sanitation. They also have dedicated purpose funds, such as for restricted revenue, special capital projects, and separate debt service funds for each bond issue. Each fund maintains specific information on sources and uses of funds. Other types of funds may include:[69]

i. Capital projects funds;
ii. Permanent funds (which may only spend the earnings on their investment balances)
iii. Proprietary funds, which are usually supported by user charges and include two types:
    a. Enterprise Funds. These fund business activities of the town that serve the public, such as an electric utility
    b. Internal Service Funds. These funds report on goods and services provided to departments of the local government
iv. Fiduciary funds. These account for funds held by the government in trust for someone else. There are two types of fiduciary funds:

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68. The creation and use of a municipal reserve fund for, inter alia, capital and nonrecurring expenditures, is the province of each town's budget-making authority. CONN. GEN. STAT. §§7-360, 7-364. 120 of the state's 169 towns allocate their budget making authority to boards of finance.

69. *See generally Uniform Chart of Accounts User Manual for Municipalities*, CONN. OFF. OF POL'Y & MGMT. 13–18, https://portal.ct.gov/-/media/OPM/CTUCOAMuniAccountingManualv718pdf [https://perma.cc/KNB9-9MV4]; CONN. GEN. STAT. § 7-406c.

a. Trust funds such as pensions and investment trusts
b. Agency funds, which account for money held on a short term basis for individuals, organizations, and other towns, such as taxes or fees. These funds have only assets and liabilities and no revenue or expenses.

This structure implies a requirement that local governments should include provisions for the operation, maintenance, and replacement of most fund assets. Municipalities must make adequate provisions for operating costs (based on data generated by cost control systems) and for the depreciation of fixed assets.

Under revisions to Government Accounting Standards Board (GASB), municipal funds must be categorized into five types:[70]

- Nonspendable fund balance—amounts that are not in a spendable form (such as inventory) or are required to be maintained intact (such as the corpus of an endowment fund);
- Restricted fund balance—amounts constrained to specific purposes by their providers (such as grantors, bondholders, and higher levels of government), through constitutional provisions, or by enabling legislation;
- Committed fund balance—amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest-level action to remove or change the constraint;
- Assigned fund balance—amounts a government intends to use for a specific purpose; intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority;
- Unassigned fund balance—amounts that are available for any purpose; these amounts are reported only in the general fund.

Because towns adopt these changes at different rates, and often in uneven segments, I treat municipal fund balances here as the total fund balance, including all five of the categories prescribed by GASB.

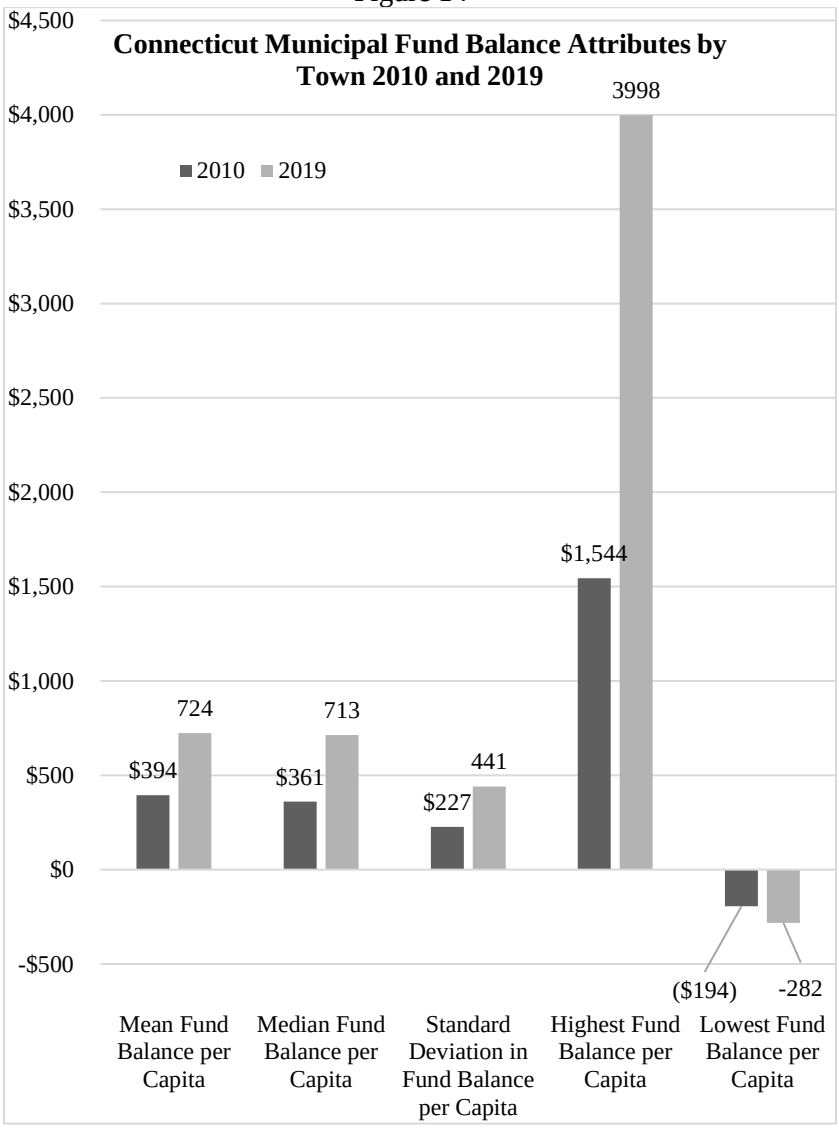
Towns in Connecticut vary considerably in certain attributes of their respective fund balances. From 2010 to 2019, towns nearly doubled their fund balances.[71] Of note, however, is that the standard deviation of those fund balances also nearly doubled. That is, while some towns dramatically increased their balances, others did not or increased them less so. This polarization of municipal wealth stands as an important signal

70. *Statement No. 54: Fund Balance Reporting and Governmental Fund Type Definitions*, GOVERNMENTAL ACCT. STANDARDS BD. 5–22 (Feb. 2009), https://gasb.org/document/blob?fileName=GASBS%2054.pdf [https://perma.cc/96GT-DHXD].

71. *See infra* Figure 14.

that towns in Connecticut are demonstrating varying capabilities or willingness to manage their fund balances.

Figure 14[72]



72. Calculations and illustration are those of the author. Calculations created from data retrieved from *Municipal Fiscal Indicators 2010-2014*, CONN. OFF. OF POL'Y & MGMT. (Jan. 2016), https://portal.ct.gov/-/media/OPM/FI20102014AsOf41916pdf.pdf [https://perma.cc/R8BH-BRR6]; *Municipal Fiscal Indicators 2016-2020*, CONN. OFF. OF POL'Y & MGMT. (July 2022), https://portal.ct.gov/-/media/OPM/IGPP/munfinsr/Municipal-Fiscal-Indicators/Municipal-Fiscal-Indicators-2016-20-Final-AsOf7-28-22.pdf [https://perma.cc/JT24-CLJS].

A tabular summary of some of the municipal fund balance attributes follows:

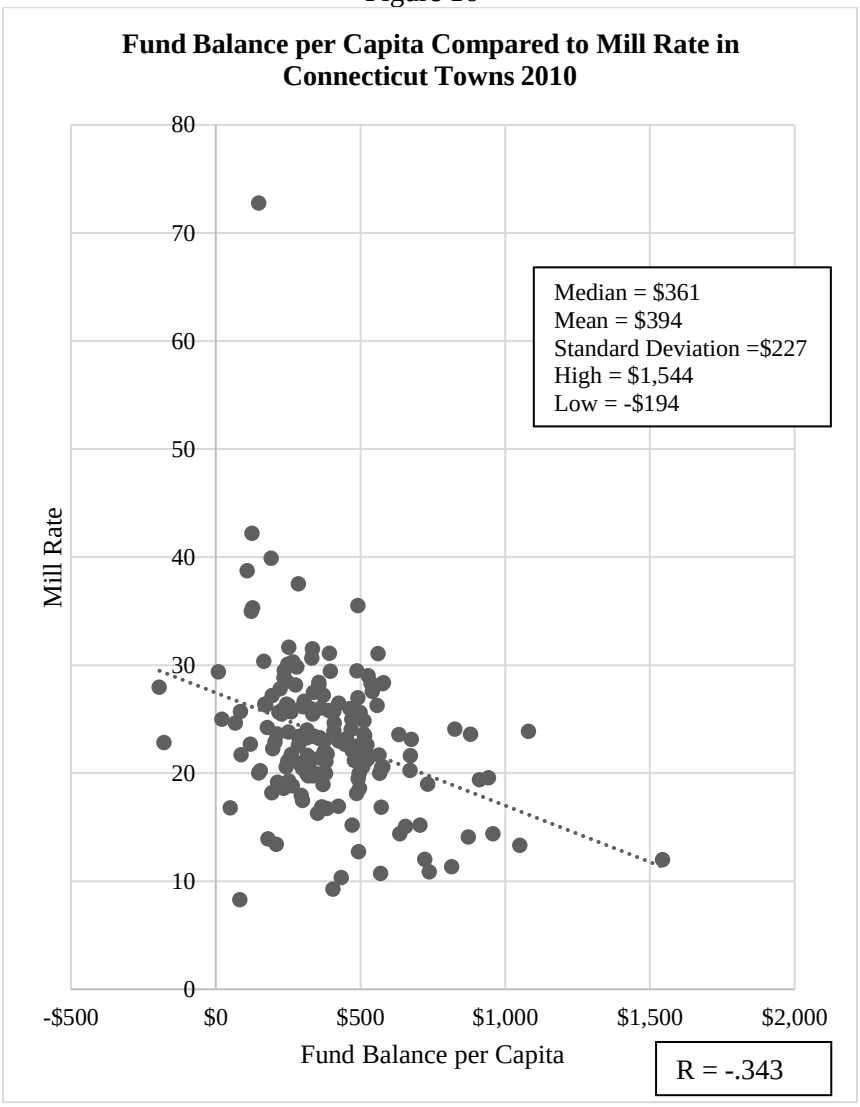
Figure 15[73]

	2010	2019
MEAN FUND BALANCE BY TOWN	$6,274,802	$11,698,787
MEAN FUND BALANCE PER CAPITA	$394	$724
MEDIAN FUND BALANCE BY TOWN	$3,821,137	$7,196,324
MEDIAN PER CAPITA	$361	$713
STANDARD DEVIATION IN FUND BALANCE BY TOWN	$6,328,366	$11,958,371
STANDARD DEVIATION IN FUND BALANCE PER CAPITA	$227	$441
HIGHEST FUND BALANCE BY TOWN	$28,613,275	$74,015,339
HIGHEST FUND BALANCE PER CAPITA	$1,544	$3,998
LOWEST FUND BALANCE BY TOWN	-$10,739,978	-$1,794,466
LOWEST FUND BALANCE PER CAPITA	-$194	-$282
CORRELATION OF FUND BALANCE PER CAPITA TO MILL RATE	-0.343	-0.457

73. Calculations and illustration are those of the author. Calculations created from data retrieved from *Municipal Fiscal Indicators 2010-2014 supra* note 72; *Municipal Fiscal Indicators 2015-2019*, CONN. OFF. OF POL'Y & MGMT. (Apr. 2021), https://portal.ct.gov/-/media/OPM/IGPP/munfinsr/Municipal-Fiscal-Indicators/FI-2015-19-Final-AsOf-4-30-21.pdf [https://perma.cc/D3RS-5L4P].

Important to our study here is that municipal fund balance levels and real property tax rates demonstrate a significant negative correlation. In 2010, that correlation was -.343. That is, towns with higher *per capita* fund balances tend to have lower mill rates.

Figure 16[74]

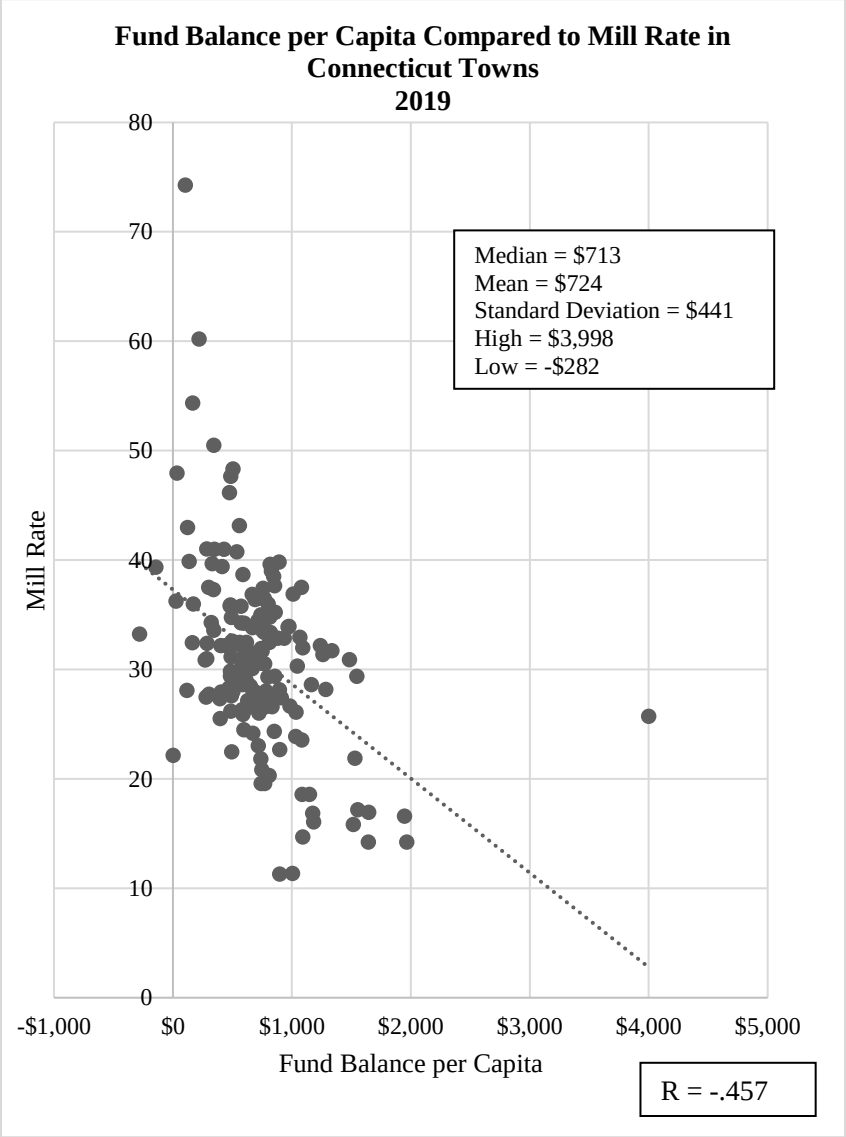


74. *See supra* Figure 15.

As fund balances rose through 2019 and varied to a much higher degree from town to town, that correlation rose to -.457, indicating a strengthening inverse relationship between fund balance levels and mill rates as towns diverged in their fund balances. The near doubling of the variance among the towns in their fund balance levels, coupled with the dramatic rise in correlation to mill rates, suggests that some towns are relying more on annual tax revenue for their operating budgets, including unanticipated expenses, and less on their "savings accounts" represented by their fund balances. Put another way, it appears that towns that maintain a strong fund balance tend not to raise their real property taxes as much as towns with weaker fund balances.

Indeed, this may be a case of towns with overall more robust positive cash flows, or high revenue to expense ratios, simply not needing to raise taxes. From one perspective, towns that rely heavily on highly cyclical property taxes for operating cash flows are more commonly obliged to access the entirety, and more, of that cash flow especially when unanticipated expenses, such as a natural disaster or capital exigency, arise. However, the notable increases in the means, medians, and standard deviations in municipal fund balances from 2010 through 2019 suggests that the increase in negative correlation between fund balances and mill rates is not merely a fiscal phenomenon. Rather, it is likely to be more closely related to municipal management.

Figure 17[75]



75. *See supra* Figure 15.

The conventional wisdom is that a town should have at least two months of operating expenses held in its unrestricted fund.[76] An underfunded position can leave a town exposed to unexpected expenses that force reallocation of resources, often with no plan of restoration. This cycle leads, inevitably, to tax hikes that do little more than delay the reckoning.

A town's development strategy, however, well considered, requires detailed information from its several departments, which, naturally, implicate fiscal issues. Management of the impact of these fiscal issues generally involves at least three elements including strong mayor or a council-manager form of local government,[77] the existence of a written investment policy for non-bond funds,[78] and a debt policy that describes how much debt can be issued and in what manner.[79]

A plan for management of the operating and capital funds should inform the operating fund of the moderate recurring capital expenses the town anticipates. This will allow for the capital fund to focus on larger, longer-lived projects and, critically, help in avoiding excess reliance on debt financing.[80]

Sound finance plans should include:

i. Clear and detailed articulation of the town's vision for its business and social goals as well as the town's current and future demographic composition.
ii. A description of the proposed project with sufficient detail such that residents can understand how the project fits into the town vision.
iii. A plan for financing the project. This should include a longer horizon plan, say, five years, along with responsible cost projections for each phase of the project. Future operating and maintenance costs should also be included in the plan.
iv. The environmental impact of the project should be reviewed. Both positive and negative impacts should be acknowledged.

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76. *See e.g.*, DAVID N. AMMONS, MUNICIPAL BENCHMARKS: ASSESSING LOCAL PERFORMANCE AND ESTABLISHING COMMUNITY STANDARDS 98 (2012).

77. 112 of Connecticut's 169 towns have adopted a system of local government that is neither Council-Manager nor Mayor-Council. *See generally Connecticut State Register and Manual*, THE SEC'Y OF STATE (2022), https://portal.ct.gov/-/media/SOTS/REGISTER-MANUAL-_-BLUEBOOK/RM_Archive/BlueBook-digital.pdf [https://perma.cc/4J4S-5QZF].

78. These funds should include the general fund and the pension funds. *Uniform Chart of Accounts User Manual for Municipalities*, *supra* note 69, at 41 (noting that non-current liabilities are subject to specific accounting. This category includes obligation bonds, bond anticipation notes, and other similar debt, capital leases, net pension obligations, and amortized premiums and discounts.); *see, e.g.*, *GFOA Sample Investment Policy*, GOV'T FIN. OFFICERS ASS'N, https://gfoaorg.cdn.prismic.io/gfoaorg/76b137b8-17e3-42bd-ae9f-7f7be8be50bd_GFOA_sample_investment_policy.pdf [https://perma.cc/YJ75-6FJR].

79. *See* NEIL O'HARA, THE FUNDAMENTALS OF MUNICIPAL BONDS 196 (2001).

80. *See* LOCAL BUDGETING, 342 (Anwar Shah, ed., 2007).

v. Past performance of the municipality in similar projects should be included in the assessment of the project. In addition to informing the current project strategy, such retrospective acknowledgement can serve to shore up political support by recognizing the public's perception of the town's track record of development and capital projects.[81]

Attention to these five elements often compels reassessment of priorities, inevitably within the context of the election cycle. Such reprioritization should not, however, displace management of the fiscal aspects of the project thereby putting the integrity of the plan at risk.

This is all to say that towns have significant responsibilities in connection with fund balances, especially fund balances associated with capital projects. Some causes of a fund balance that is too low include both undisciplined budget practices and a desire to reduce taxes or keep them artificially static. Some signs that a town's fund balance is too low include short-term borrowing through devises such as revenue anticipation notes and tax anticipation notes and deficit financing.

The role of the towns in the case of fund balances, then, is distinguishable from voter-defined characteristics that I have shown in this note appear to have a relationship with real property tax rates. Characteristics such as age, and education, and race[82] belong exclusively to the individual residents, whereas fund balances and fiscal plans are established and maintained by the local government administrators, conventionally in response to expressions of resident demand. However, as I shall demonstrate in the final portions of this essay, those expressions of demand are rarely broadly representative of the needs or desires of the local population.

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81. *See* MUNICIPAL FINANCES: A HANDBOOK FOR LOCAL GOVERNMENTS 333 (Catherine Farvaque-Vitkovic, C. & Mihaly Kopanyi, eds., 2014).

82. Race as a factor in institutional decision making has long and sordid history in America. With the Supreme Court decision of *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978), the traditional answer to historic racial discrimination, affirmative action, became intellectually distinguished from discrimination. *Diversity* became the new touchstone in rules-based decision making. A cogent summary of the changes in social attitudes facilitated by *Bakke* is found in BRUCE SCHULMAN, THE SEVENTIES: THE GREAT SHIFT IN AMERICAN CULTURE, SOCIETY, AND POLITICS 71–72 (2003) ("The ideological shift to diversity led to a reconception of the very nature of America—to see the nation not as a melting pot where many different peoples and cultures contributed to one common stew, but as discrete peoples and cultures sharing the same places – a tapestry, salad bowl, or rainbow. . . Americans based their claims on the commonweal (and, increasingly, on their demands for exemption from its responsibilities) less on their common rights and privileges as citizens than on their specific cultural identities;" *See also*, Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702, 709 (1978) (("[T]he basic policy of the statute [Title VII] requires that we focus on fairness to individuals rather than fairness to classes").

D. *Public Comment at Municipal Agency Meetings*

In his magisterial *Historical Discourse* address given before the citizens of Concord on September 12, 1865, Ralph Waldo Emerson declared the New England town meeting to be the "great secret of political science" wherein every individual received fair weight in government[83] Both the just and the unjust, observed Emerson, are provided by this forum the opportunity to provide counsel to the rest. Like the weathervane, Emerson slyly averred, the vote of the town turned on the last and strongest breath during the meeting.

Virtually any risk of change to the municipal fiscal ecology that may affect how participants in the public dialogue apprehend their prospects can galvanize them into speaking out in the available municipal public forums.

As a general rule, the public has a right the be present at meetings of state and local government agencies.[84] The public does not, however have a right to be heard or to comment at agency meetings. The statute is simply silent on this exercise. Consequently, public participation is entirely within the discretion of each agency, except as may be required or prohibited by other law.[85] If the agency allows any member of the public to speak at the meeting, it necessarily must permit all members of the public to speak.[86]

Such input from the public generally serves to inform the agency representatives of issues associated with the business before the agency. It is important to observe, however, that the opportunity to be heard by the agency is confined to those persons willing and able to present themselves at a public hearing, whether in person or by some permitted remote means.[87] Persons without the means to so appear, whether by reason of time, transportation, technology, or other required resource, are effectively silenced. In other words, the residents who have the resources

83. 11 RALPH WALDO EMERSON, *Historical Discourse*, *in* THE COMPLETE WORKS OF RALPH WALDO EMERSON 29 (1878).

84. CONN. GEN. STAT. §1-225(a).

85. *See* Connecticut Freedom of Information Commission, *Advisory Opinion #35* (Dec. 13, 1978), https://www.state.ct.us/foi/Advisory_Opinions_&_Dec/AO_35.htm [https://perma.cc/W27E-M3B6]; *see also* Piscottano v. Town of Somers, 396 F. Supp. 2d 187, 202 (D. Conn. 2005) ("a government's regulation of speech activity in a designated public forum is examined under strict scrutiny analysis. Unlike a traditional public forum, however, the government is not required to indefinitely retain the open character of a designated public forum") (internal citations and quotation marks omitted).

86. It is black-letter law that the government may not permit or preclude speech based on its content or the identity of the speaker. *See* Widmar v. Vincent, 454 U.S. 263 (1981); Carey v. Brown, 447 U.S. 455 (1980); Consolidated Edison Co. v. Public Service Comm'n of N.Y., 447 U.S. 530, 537-538 (1980); Police Dept. of Chicago v. Mosley, 408 U.S. 92, 96 (1972).

87. In Connecticut, remote conduct of public agency meetings, including meetings of municipal agencies, was broadly enabled by Executive Order 9H on October 20, 2020 and was codified in Section 149 of P.A. 21-2. The April 30, 2022 sunset date of the original statute was eliminated and other minor revisions made with the enactment of P.A. 22-3 on April 28, 2022.

to appear at local government agency meetings to articulate their needs and wants are not representative of the town population. The participants are aware of and often even exploit this mismatch to their own ends.

> Being responsive to the crowd that shows up exacerbates a tendency in representatives to be more attentive to those defending concentrated benefits and costs than the more dispersed interests of the general public. Many local boards consist of part time and volunteer members. Unlike professional politicians, they are not used to being criticized and are more easily flustered by vocal, angry critics. [88]

Control of the narrative is a critical strategy in policy making at any level. Establishing the desired narrative requires its public recitation and repetition. Cicero observed how human nature fuels the persistence of a narrative: "Nature forms and produces men to be facetious mimics or story tellers; their look, and voice, and mode of expression assisting their conceptions."[89] The often Manichean, us-versus-them, theme of the public narrative articulated by those residents rising to speak out on local policy and tax matters often invites similarly situated local residents to declare their reluctance to share their neighborhood with a marginalized "other."[90]

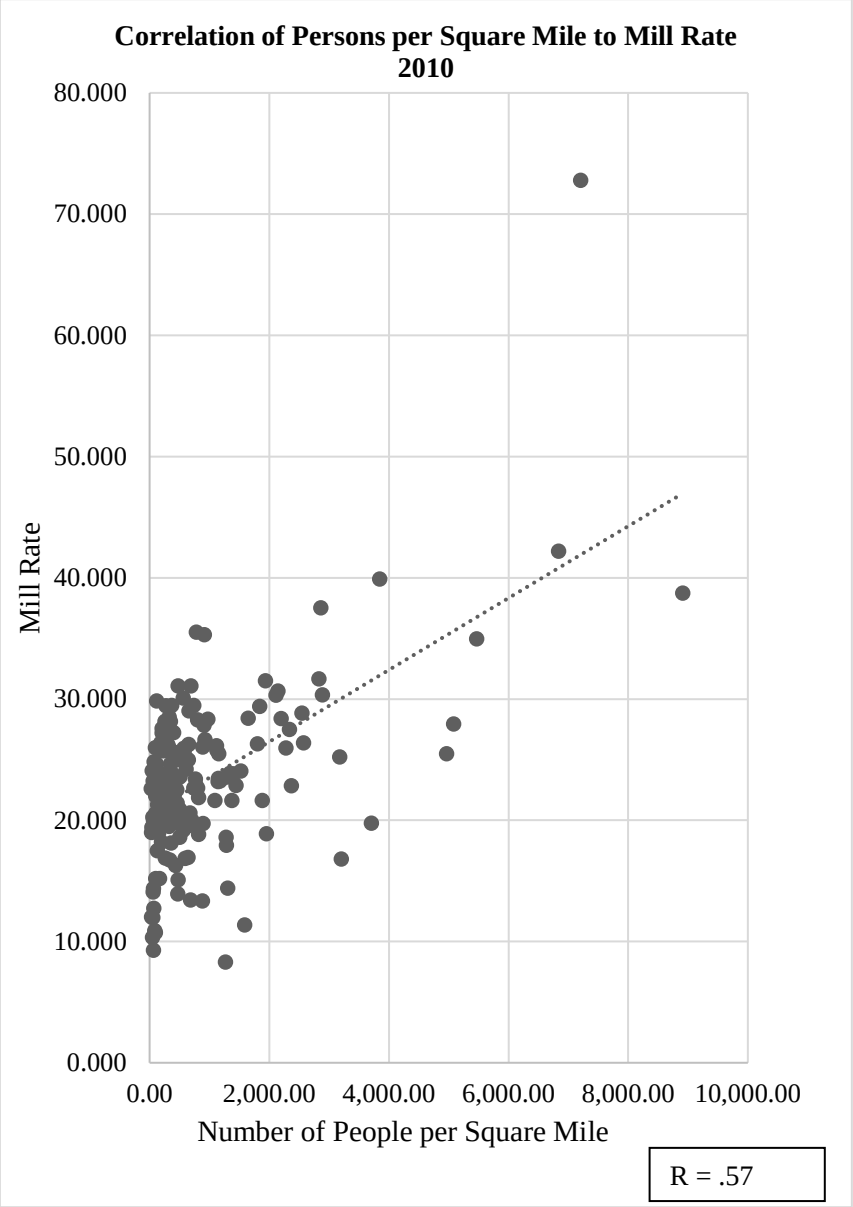
It is the neighborhood residents who know which streets need repaving, where street lights would be of most use, the pathways that children walk on their way to school, and where blight is located and, perhaps, concealed by other structures. They are also uniquely positioned to understand the effects of housing density, which has a significant correlation to mill rates when measured as persons per unit of land area, but no significant relationship when measured as persons per housing unit. Both of these relationships hold constant over time, providing cross-attestation as to their validity.

88. BRUCE E. CAIN, DEMOCRACY MORE OR LESS: AMERICA'S POLITICAL REFORM QUANDARY 61 (2015); *see also*, Zoltan L. Hajnal & Paul G. Lewis, *Municipal Institutions and Voter Turnout in Local Elections*, 38 URB. AFFS. R. 645, 655–57, 665 (2003) (turnout in local elections and participation in local civic affairs is often low and unrepresentative, leading to greater power for residents who do participate—a group that is richer, whiter, and more likely to be home owners than the general population.).

89. MARCUS TULLIUS CICERO, CICERO ON THE IDEAL ORATOR (DE ORATORE) (Oxford University Press, 2001) (c. 55 BCE).

90. *See infra* notes 111–114 and associated text.

Figure 18[91]

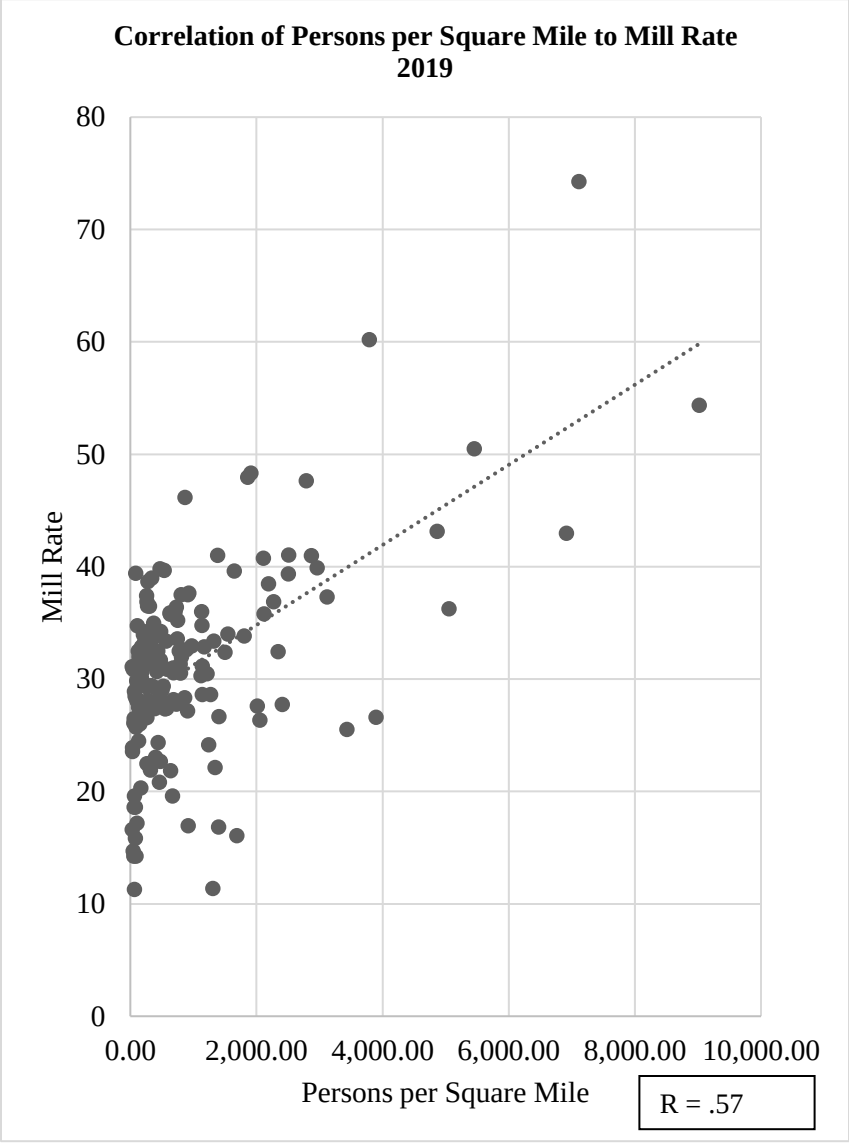


91. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

It appears entirely reasonable that mill rates might rise to accommodate a larger population. Expenses ranging from road use, public services deployment, and demands on human resources would all be expected to rise in circumstances where resource use rises in inevitable proportion to population size and density.

Indeed, when I measure that same relationship in 2019, I find it is the same:

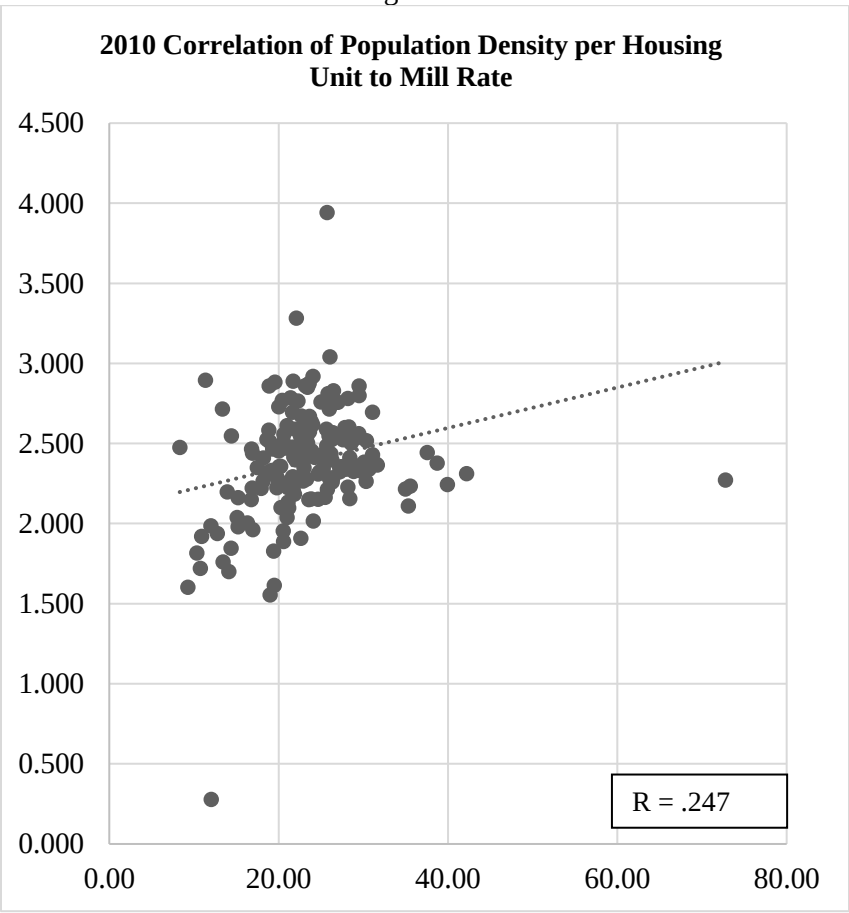
Figure 19[92]



92. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

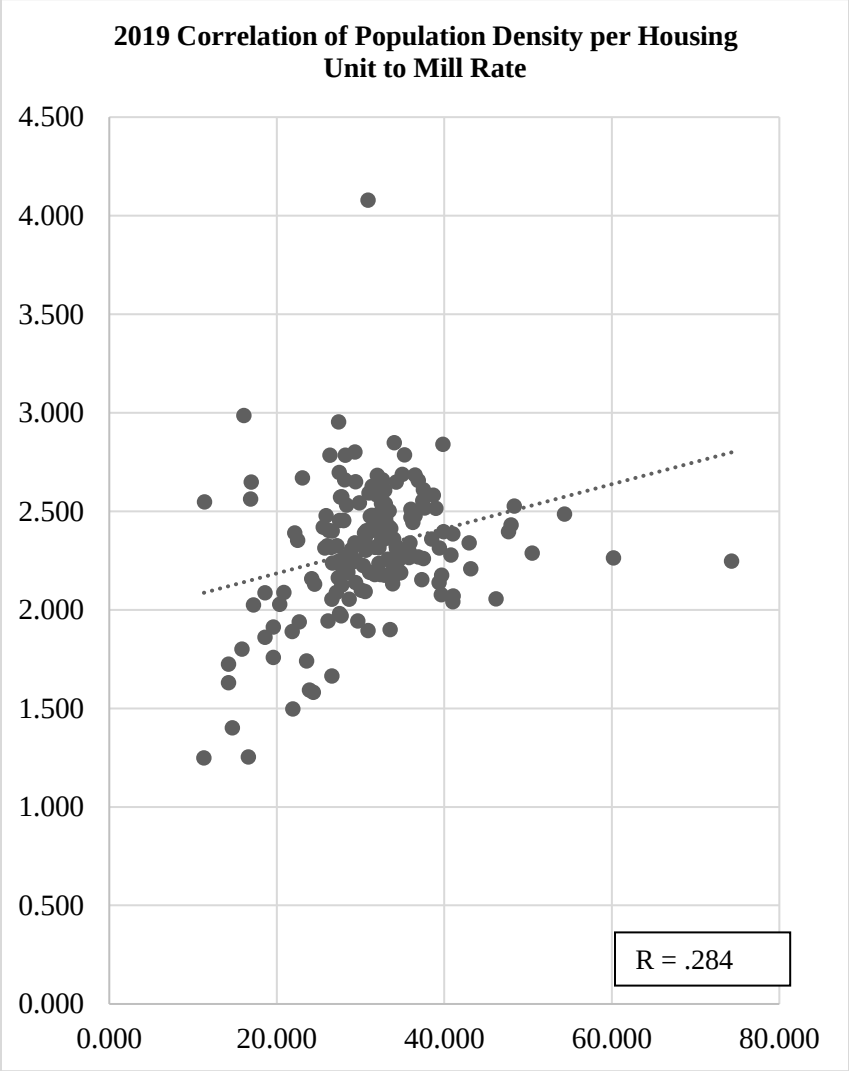
The relationship of housing density measured, not by land area, but by housing units, reveals a dramatically lower correlation to real property tax rates. The absence of any apparent upward pressure imposed on mill rates by density of unit occupancy suggests that anxiety over burdens on municipal resources, often articulated in opposition to planned development of multi-family housing, is without quantitative support.

Figure 20[93]



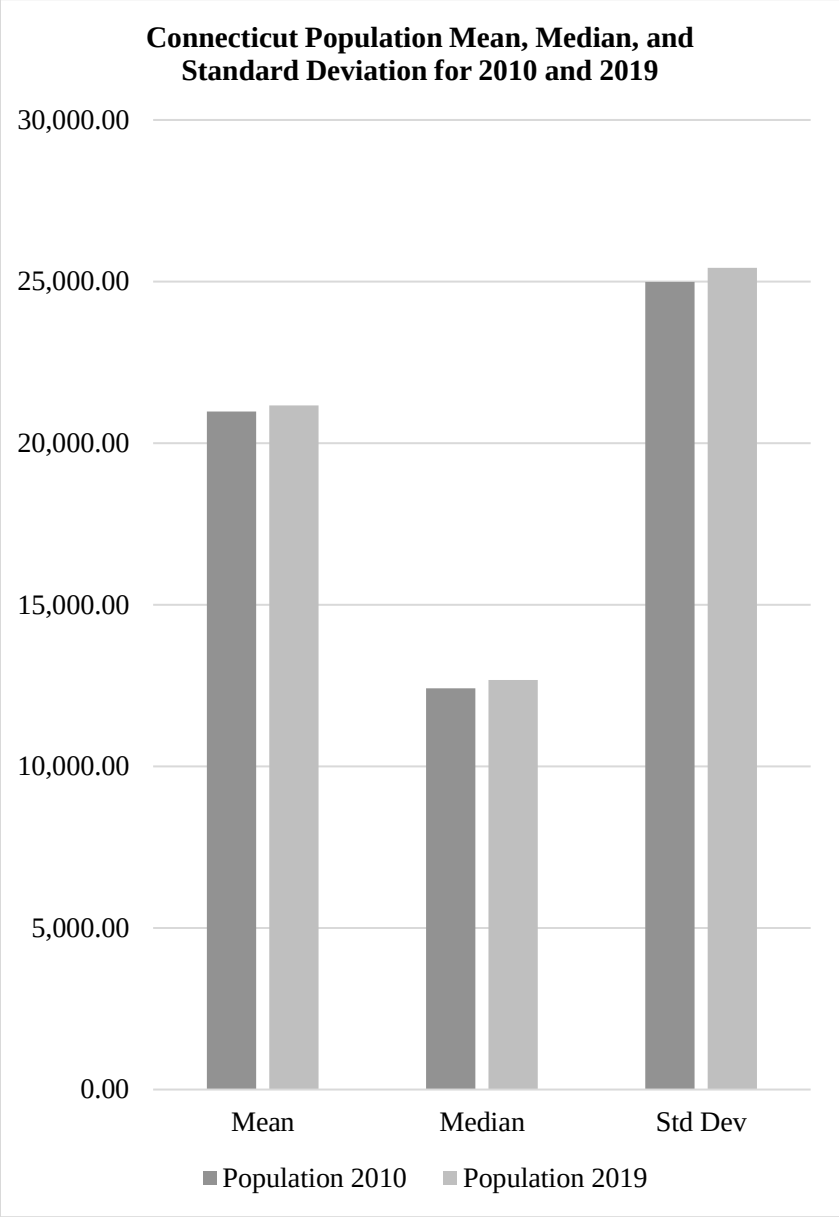
93. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 21[94]



94. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

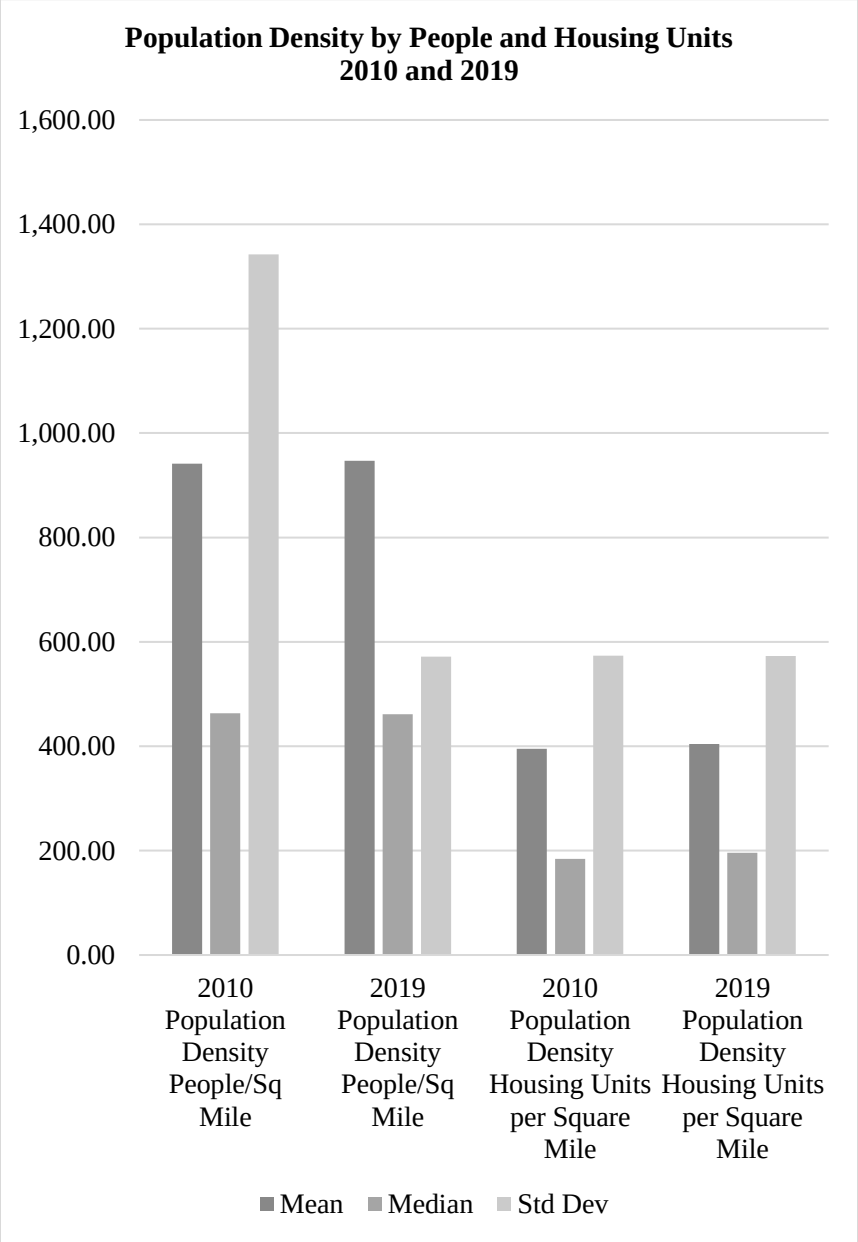
Figure 22[95]



95. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Connecticut's population, along with its distribution, has changed little over the period in our study. Density of population and housing units has also remained consistent:

Figure 23[96]



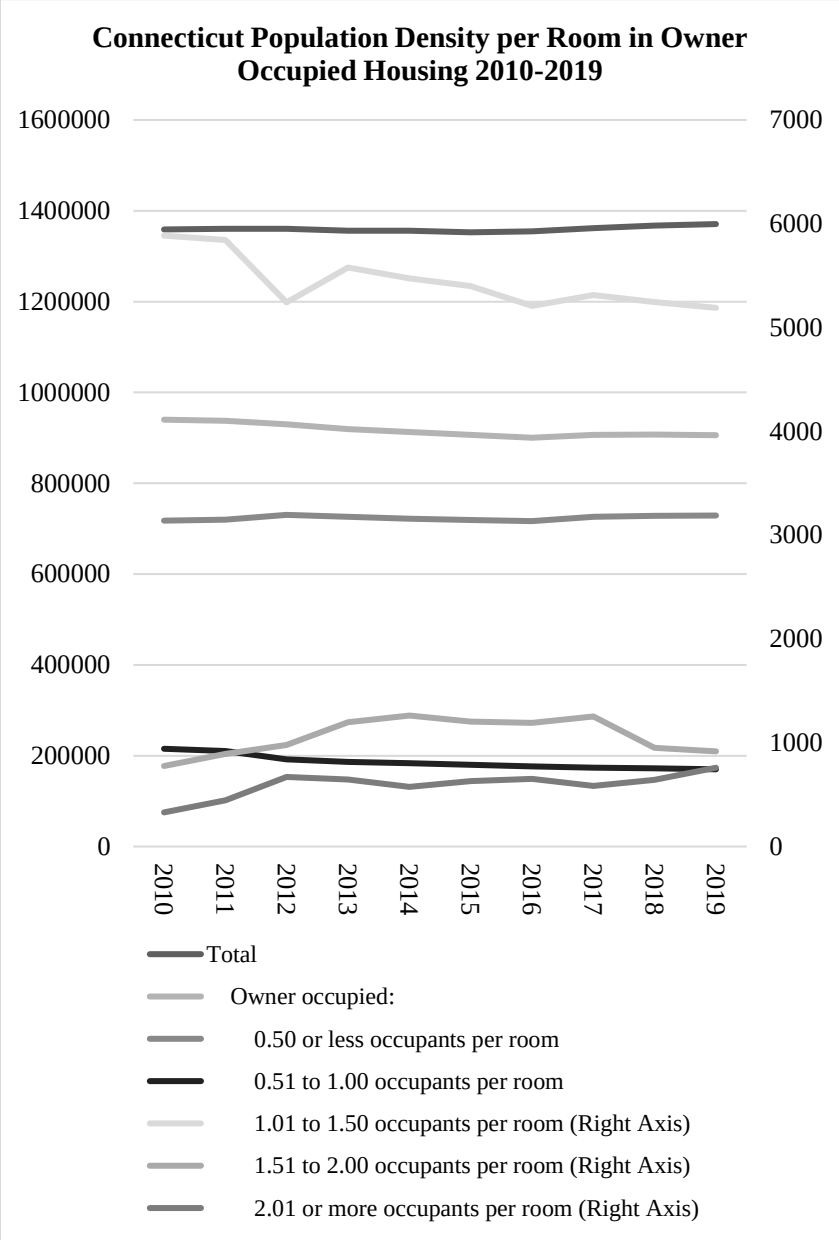
96. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

The swift decline in the variation, measured here as standard deviation, in people per square mile from 2010 to 2019, while the total population and housing units remained fairly constant, may be explained as the result of consolidation of residents among existing housing units.

I observe that density per room in owner occupied housing has changed little overall, with a notable exception of a 70% increase in people residing together in clusters of more than two occupants per room.[97] With renter occupied housing, however, the change in occupancy per room has risen in every cohort.[98]

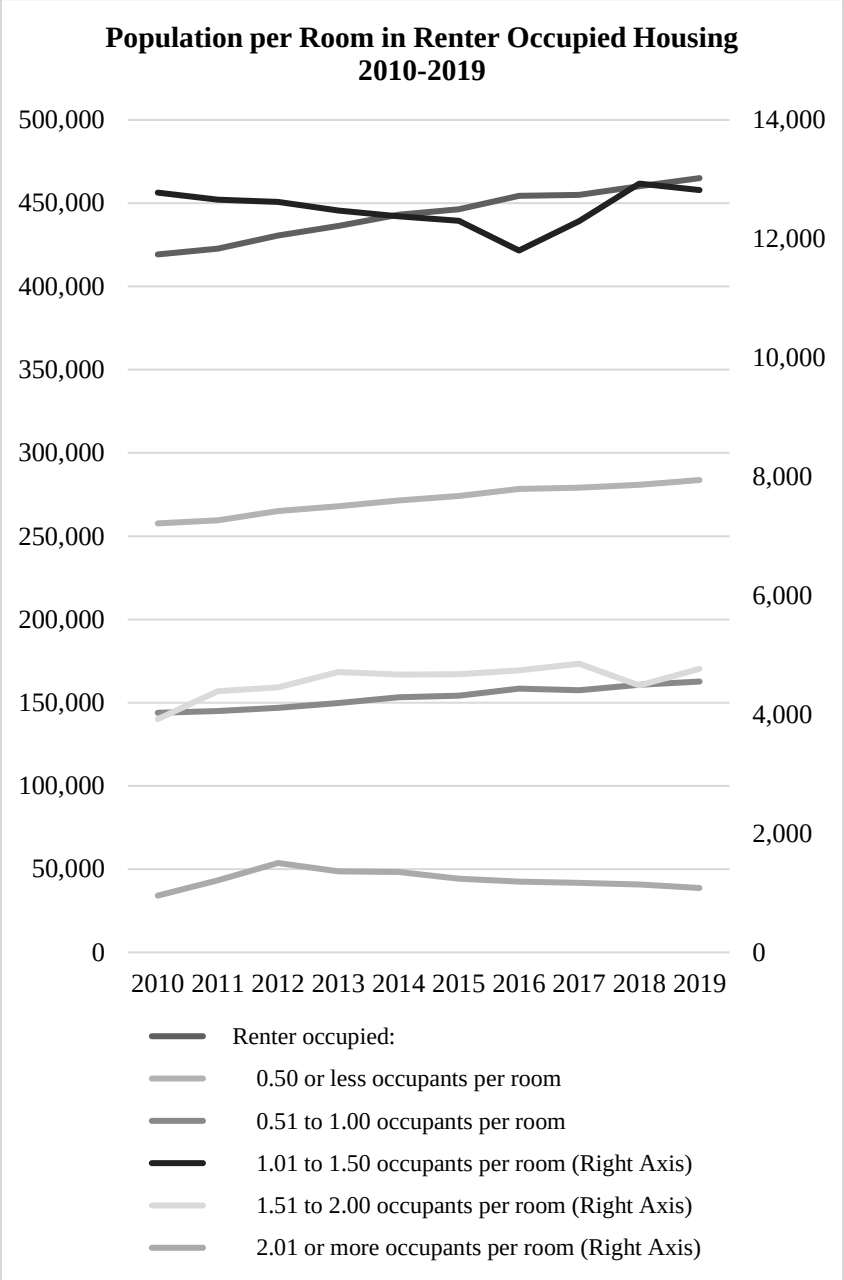
97. *See infra* Figure 24.
98. *See infra* Figure 25.

Figure 24[99]



99. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 25[100]



100. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

There have been two population shifts tending to yield consolidation, and thereby decrease the standard deviation in people per square mile. The data in tabular form is presented in Figure 26.[101]

Among owner occupied residences, occupational densities in smaller concentrations have shown moderate growth and even decline among residences housing .5 to 1.5 people per room but a significant increase in the number of persons per room where that density is above 1.5.[102] By contrast, the densities of persons living in renter occupied housing have risen.[103]

101. *See infra* Figure 26
102. *See infra* Figure 26
103. *See infra* Figure 27.

Figure 26[104]

Owner Occupied Housing			
Persons per Room	Population in 2010	Population in 2019	Percent Change
.5 or fewer	717,692	728,741	1.5
.51-1	215,301	170,075	-21
1.01-1.5	5,886	5,190	-11.8
1.51-2	776	916	18
2.01 or more	329	759	131

104. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

Figure 27[105]

Renter Occupied Housing			
Persons per Room	Population in 2010	Population in 2019	Percent Change
.5 or fewer	257,675	283,713	10
.51-1	143,904	162,676	13
1.01-1.5	12,776	12,822	.36
1.51-2	4,394	4,769	8.5
2.01 or more	955	1,085	13.6

105. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

The move of small household units (.51-1.5 persons per room) away from owner occupied and into renter occupied spaces suggests the aggregation of residents into multi-family dwellings, with a resultant reduction in the variation in per unit area residents.

E. *Building Permits as A Measure of Demand and Support for Housing Types*

Data from the Census Building Permits Survey shows that, in Connecticut, growth in multifamily construction has significantly outpaced single family buildings nationally in most of the years studied, especially among structures including three or more dwelling units.[106] Insofar as such buildings represent revenue producing capital assets, municipalities seeking to broaden and deepen their grand lists are obliged to confront the inevitable resistance from tenured single family homeowners.[107]

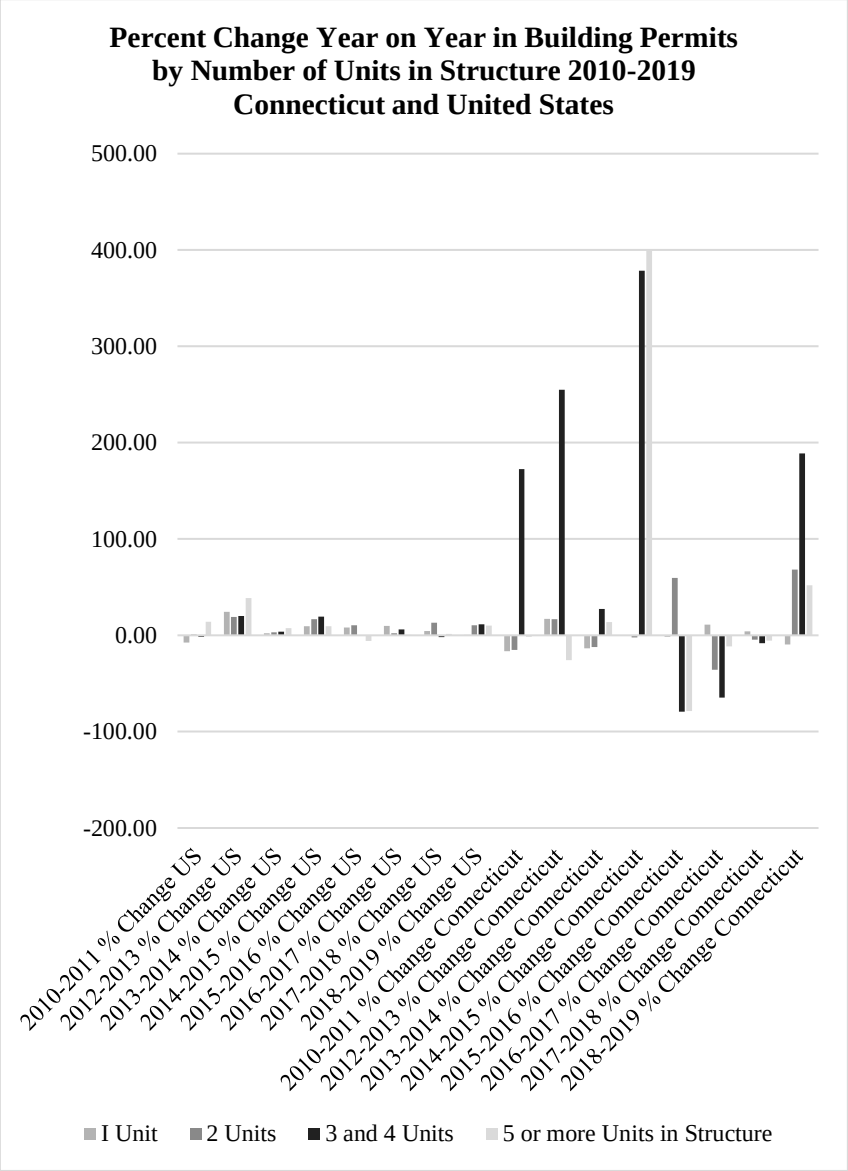
The level of activity in multifamily housing development suggests that voter misgivings, as expressed in public comments, are frequently outweighed by the economic realities, including the resultant broadening and deepening of the grand list and the positive impact of low income housing development on the communities where they are built.[108]

106. *See generally Historical Permits by State – Units*, U.S. CENSUS BUREAU, https://www.census.gov/construction/bps/historical/state_units.html (last visited Sept. 16, 2023).

107. The overrepresentation of homeowners commenting at public hearings concerning housing eclipses their actual share of the voting populace. *See* KATHERINE LEVINE EINSTEIN, DAVID M. GLICK, & MAXWELL PALMER, NEIGHBORHOOD DEFENDERS 101 (2020) (73 percent of commenters own homes while representing only 45.6 percent of voters); Michael Hankinson, *When Do Renters Behave Like Homeowners? High Rent, Price Anxiety, and NIMBYism*, 122 AM. POL. SCI. R. 473, 474, (2018) ("while homeowners exhibit a constant level of NIMBYism across all housing markets, renters do not.")

108. In testing the effects of nearby establishment of Low Income Housing Tax Credit deployments in the Chicago area between 1987 and 2014, Richard Voith, et al., found that clustering of LIHTC properties generates an 11.5 percentage point increase in home values in low income communities, and a 7.4 percentage point increase in higher income communities. Richard Voith et al., *Effects of Concentrated LIHTC Development on Surrounding House Prices*, 56 J. HOUS. ECON. 1, 20–21 (2022).

Figure 31[109]



109. Calculations and illustration are those of the author. Calculations created from data retrieved from *American Community Survey Data*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/acs/data.html (Aug. 16, 2023).

III. CHALLENGES TO PROPERTY TAX INCREASES

Challenges to municipal property tax rate increases are presented in a number of ways, including objections at required public hearings.[110] Such objections are usually delivered by residents:

- Who represent the locus of the concentrated costs, rather than the diffuse benefits, of any increase in taxes. This simple economic fact means that expressed public sentiment includes fewer supporters of tax increases than opponents.
- Who understand that local governance boards are comprised of volunteer members, rather than professional politicians[111]
- Who comprise a small, unrepresentative group with strong views and the time and resources to express them at public meetings[112]

I use public hearing opposition to new housing development here as a proxy for opposition to increases in the real property tax. The associated public comment is, not incidentally, dominated by residents who fear higher taxes and reduced property values more than they value improved or additional amenities, reduced debt, or otherwise improved municipal fiscal stability that might be acquired with those taxes. [113] Neighborhood level civic engagement and public comment may be viewed as expressing more abstract fears than empirical data.

Commenters in public hearings typically invoke include such anxieties as:

- Increased Susceptibility to flooding
- Impact on septic systems
- Environmental concerns
- Neighborhood character and
- Parking[114]

These broad concerns represent both individual anxieties writ large, as well as generalized code for other, and considerably less palatable, incentives to oppose initiatives that have the effect of broadening or

110. *See* CONN. GEN. STAT. § 7-344 ("Not less than two weeks before the annual town meeting, the board shall hold a public hearing, at which itemized estimates of the expenditures of the town for the ensuing fiscal year shall be presented and at which all persons shall be heard in regard to any appropriation which they are desirous that the board should recommend or reject.") (in pertinent part).

111. CAIN, *supra* note 88, at 61.

112. *See* JANE J. MANSBRIDGE, BEYOND ADVERSARY DEMOCRACY 111 (1983) ("the composition of the town meeting remained the same: old timers, villagers, the old, and the rich were overrepresented. This unrepresentative sample of the citizenry rejected the proposed increase in the tax load").

113. *See*, Daniel Kahneman & Amos Tversky, *Prospect Theory: An Analysis of Decision Under Risk*, 47(2) ECONOMETRICA 263, 279 (Mar. 1979) ("the value function for losses is steeper than the value function for gains.").

114. EINSTEIN, ET AL., *supra* note 107, at 87.

deepening the municipal fiscal base.[115] Observe also that the only solution these collected anxieties leave as acceptable is to make no changes to the neighborhood at all.

Fear of the unknown is an effective propellant for narrative. This distinctly human capability arises from our range of vocal communication, which empowers us to transmit anxiety without having to provide any observable data in support of the claims that induce fear. In circumstances where the speaker, or procession of speakers, are able to induce an adequately strong fear response, an instinctive fight-or-flight reaction from the listeners may be provoked, effectively subverting rational arguments to the contrary.[116]

Another tactic of the wealthy and zealous has been to introduce time consuming and expensive litigation to the public descant. Court action is typically grounded in claims of statutory infringement. Such litigation tends to stand as inferential opposition to property tax rate increases, or its misapprehended corollary, property value diminishment, through opposition to new housing development.[117] The residents that move to new development tend to be less wealthy than long-tenured residents, with the fiscal effect that they are likely to consume more in municipal services than they produce in tax revenue. These factors, when taken together, yield existing resident anxieties of both higher taxes and lower home values for current residents.[118] Opposition to new housing by tenured

115. *See* Hajnal & Lewis, *supra* note 88; EINSTEIN, ET AL., *supra* note 107, at 103 ("community meetings are dominated by . . . individuals from the immediate surroundings. The wider community, in contrast, is barely represented"); J. Rosie Tighe, *Public Opinion and Affordable Housing: A Review of the Literature*, 25 J. PLAN. LITERATURE 1, 4 (2010) (some researchers conclude that "concerns regarding property values have become a proxy for racial prejudice"); Anika S. Lemar, *Zoning as Taxidermy: Neighborhood Conservation Districts and the Regulation of Aesthetics*, 90 IND. L. J. 1525, 1530-31 (2015) (in arguing for preservation of the neighborhood character, there is implied an "assumption that a person's neighbors have a legitimate interest in 'preserving' the neighborhood in the state in which it existed on the day that they purchased their homes").

116. *See e.g.*, ROBERT J. SHILLER, NARRATIVE ECONOMICS 35(2019); *See also*, ULRICH BECK, RISK SOCIETY: TOWARDS A NEW MODERNITY 76 (Mike Featherstone ed., Mark Ritter trans., 1992) ("How do we handle *ascribed* outcomes of danger and the fear and insecurities residing in them? How can we cope with the fear, if we cannot overcome the causes of the fear?")(emphasis in original). In other words, inducement of fear without providing the target audience the data, or tools, to sort out the underling anxieties leaves in its wake a problem that might only be attenuated by flight or fight.

117. New housing construction in a neighborhood, *ceteris paribus*, is often characterized by existing residents as threatening to lower property values through the supply and demand mechanism. The apprehended loss of value is argued to work, in effect, as a tax on existing homeowners. *See* EINSTEIN, ET AL., *supra* note 107, at 33 ("neighbors are especially concerned about changes that could lower property values") (citations omitted); Kahneman & Tversky, *supra* note 113, at 274 ("people normally perceive outcomes as gains and losses, rather than as final states of wealth or welfare").

118. Hankinson, *supra* note 107, at 475. *But see* Rolf Pendall, *Opposition to NIMBY and Beyond*, 35 URB. AFFS. REV. 112, 114 (1999) ("fiscal impact studies tend to show that most housing types generate less property tax revenue than they demand in local services").

residents has even precipitated its own vocabulary of acronyms. In addition to the NIMBY coalitions, opponents have deployed the intellectually expedient LULU (Locally Unwanted Land Uses) and their alliances are often aptly identified as CAVEs (Citizens Against Virtually Everything). Collectively, these groups are viewed as sharing the goal of BANANA (to Build Absolutely Nothing Anywhere Near Anyone).

Efforts to limit and block the investments in the municipal capital base, along with its supporting infrastructure, including housing, effectively limit the scaling necessary for economic growth. Limitation of scaling places a town on a predictable pathway: Less scaling inevitably yields less clustering and less clustering means lower levels of innovation and productivity. Critical to my study here, lower economic output constrains the property tax base as real property values stagnate. This, in turn, limits the ability of the affected towns to invest in economic development and infrastructure.[119]

Litigation has been diminished as a threat to the establishment of new housing, multifamily or otherwise, in Connecticut by two decisions of the State Supreme Court, each substantially expanding the discretion of municipal agencies to issue or withhold permits conditional upon the provision of additional information.[120] These expansions of discretion appear to have reduced the bases for citizen litigation concerning agency decision making, as evidenced by a significant drop-off in litigation grounded in either zoning or inland wetland rules beginning in the 2008–2009 period.[121]

With the limitation of the litigation channel as a means of airing opposition to many municipal decisions affecting real property, the theater of operations for opponents of change has returned to the public hearing. Participants in the public debate process are, generally, unrepresentative of their broader communities.[122] Further, those participants are drawn from a pool of persons who have the resources (especially the time to participate), are already engaged in the local dialogue, and many of whom are recruited to the hearing by others similarly engaged.[123]

Observe that knowledge of the issues is not among the common qualities of participants in the public debate. Indeed, a broad swath of

119. RICHARD FLORIDA, THE NEW URBAN CRISIS 27–28 (2017).

120. Finley v. Inland Wetlands Comm'n, 959 A.2d 569, 589 (Conn. 2008) (upholding IWC's issuance of a permit conditional upon submission by applicant of additional plans and information regarding erosion control, phasing, winter sanding, and drainage); Unistar Props. v. Conservation and Inland Wetlands Comm'n, 977 A.2d 127, 146 (Conn. 2009) (Commission's withholding of permit conditional on applicant's submission of additional information on wildlife in order to determine whether the proposed activity will affect the physical characteristics of the subject wetlands was valid).

121. *See infra* note 125 and accompanying Figure 32.

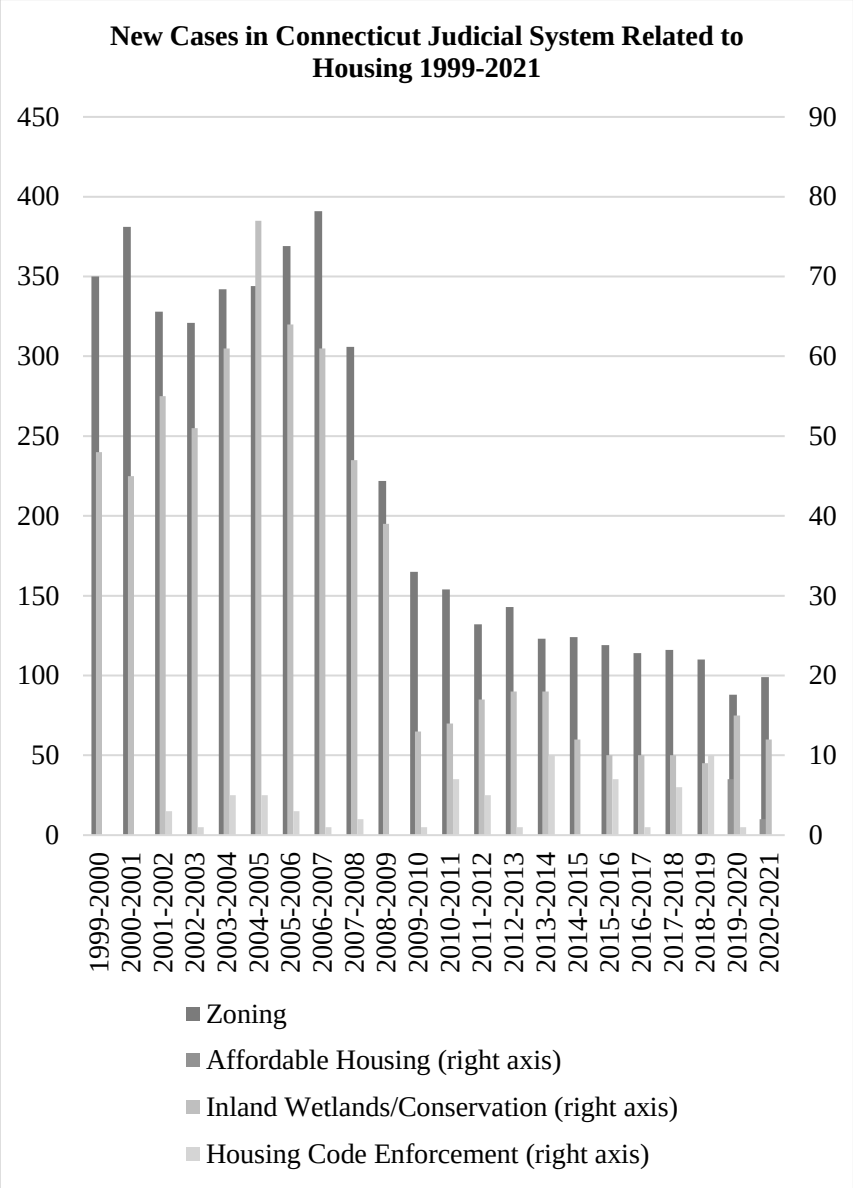
122. EINSTEIN, ET AL, *supra* note 107 at 37.

123. *Id.*

American citizens are woefully uninformed about issues of public policy.[124]

124. MICHAEL X. DELLI CARPINI & SCOTT KEETER, WHAT AMERICANS KNOW ABOUT POLITICS AND WHY IT MATTERS 270 (Yale Uni. Press, 1996); Timothy A. Gibson, *NIMBY and the Civic Good*, 4 CITY & CMTY. 381, 396 (2005) (attempts to counter ideology with data are pointless).

Figure 32[125]



125. Figure 32 has been created by the author and derived data from the Connecticut Judicial Branch. *Judicial Branch Statistics: Housing Matters*, CONN. JUD. BRANCH, https://jud.ct.gov/statistics/housing/default.htm (last visited Sept. 16, 2023).

A. *A Word on the Underlying Game Theory*

Town voters will turn out both for and against increases in property taxes. However, this polarization of views, expressed in binary form in the budget vote, yields an inefficient outcome.

Voters express their preferences within the framework of their vote on the municipal budget. Some will advocate for the perceived additional benefits expected to be purchased with increases in taxes. Others will prefer to retain their cash and expend it according to their own, rather than the communal, preferences. Possible outcomes include each group voting as a bloc, or cooperatively and finding some compromise position where each bloc votes in favor of a result that only partially satisfies their initial preferred outcome.

If we think of voting for or against property tax increases (or, for that matter, tax decreases) as an interaction between two groups in which participants can cooperate with each other or turn against one another (here, defect) in the hope of obtaining their desired outcome, such as acquiring or improving public goods or services, or, perhaps, delaying a tax increase by not supporting the associated expenses.

We might illustrate voting strategy as one species of the classic Prisoners' Dilemma, in which participants are given the options of cooperation or defection, and in which each might expect the following payoffs, based on their respective, and independent, strategy choices:[126]

126. The story behind this classic example of game theory involves two players. Here, both players have been captured by the authorities and implicated in two crimes—one minor crime and one major crime. Their guilt of the minor crime is without doubt. Guilt of the major crime will require the confession of at least one of the prisoners. The authorities offer that if one prisoner confesses, that person will be sentenced to a year in prison and the other will suffer a four year prison sentence. If both confess, they both go to jail for three years. If neither confesses, they will each received a two year sentence. These outcomes sets are illustrated in Figure 33.

Figure 33[127]

Player 1

Player 2	Cooperate	Defect
Cooperate	3,3	1,4
Defect	4,1	2,2

127. This Figure 33 illustrates, in matrix form, the Prisoners' Dilemma valuation problem, described above.

In the context of an annual municipal budget vote, the voters have a choice to either cooperate toward some middle ground, or polarize, each retreating to his or her own corner and hoping for enough support to provide a non-cooperative result in their respective favors.

Thus, each bloc of voters (here, represented as players in a two-person game) can optimize their payoffs by cooperating, and accepting a lesser payoff, under the assumption that the other player also deploys the same strategy. While these calculated strategies only work in cases of an indefinite sequence of plays (a player who can anticipate the terminal round will simply withhold cooperation until that round), I will use a five-year horizon here to illustrate the calculations.

Voters looking ahead to subsequent years will apply a discount factor to future payoffs, based on some apprehension of the time value of money and the natural human inclination to impatience. A voter who expects to repeat the engagement without limitation into the future will impose a lower discount factor.

The town budget vote is not an isolated event, however. It occurs annually and voters (or their elected representatives) know that what they don't get this year, they can hope for in the next. Hence, the value to the voters of the additional amenities or the retained cash is the value of those cash flows over time. In other words, voters, recognizing it or not, assess their positions using a present value cash flow analysis.

So, in the first year of budget voting activity, the two voting camps (for and against a tax increase) will each anticipate their respective payoffs. A sequence of five annual cooperative votes, in our example, each discounted at a given factor, will yield an expected payoff equal to the geometric series.

A voter who assigns a constant discount factor of, say, .5 to the expected future payoff series brought by cooperation will anticipate:

$$= 3 + \frac{3}{(1.5^1)} + \frac{3}{(1.5^2)} + \frac{3}{(1.5^3)} + \frac{3}{(1.5^4)} + \frac{3}{(1.5^5)} \approx 8.2$$

However, let us contemplate how voting on tax issues actually occurs. A voter who attributes a higher value to present gratification will impose a higher discount to the series of payoffs from the votes on the proposed tax. Here, in our arrangement, voters who discount later payoffs more highly, anticipate a present value with mutual cooperation of:

$$= 3 + \frac{3}{(1.8^1)} + \frac{3}{(1.8^2)} + \frac{3}{(1.8^3)} + \frac{3}{(1.8^4)} + \frac{3}{(1.8^5)} \approx 6.6$$

Thus, voters with incentive for future, rather than present, returns are rewarded for cooperation.

However, a non-cooperative voter who prefers current to delayed gratification fancifully hopes for a series of utility values of 4 in our example, in which his or her voting group's non-cooperation is met by perennial cooperative behavior from the other group. Hence, that group will hope for a payoff outcome valued at:

$$= 4 + \frac{4}{(1.8^1)} + \frac{4}{(1.8^2)} + \frac{4}{(1.8^3)} + \frac{4}{(1.8^4)} + \frac{4}{(1.8^5)} \approx 8.7$$

Such an outcome is improbable, of course, because it is premised on the other voting group not protectively reacting to the first group's behavior. Once both groups become non-cooperative, the only outcome they can obtain is the result of mutual, persistent defection:

$$= 2 + \frac{2}{(1.8^1)} + \frac{2}{(1.8^2)} + \frac{2}{(1.8^3)} + \frac{2}{(1.8^4)} + \frac{2}{(1.8^5)} \approx 4.4$$

But, perhaps just as likely, once defection is announced, voters may, perhaps annually, swap between hope of cooperation and resignation to non-cooperation, yielding an outcome that looks like:

$$= 1 + \frac{4}{(1.8^1)} + \frac{1}{(1.8^2)} + \frac{4}{(1.8^3)} + \frac{1}{(1.8^4)} + \frac{4}{(1.8^5)} \approx 4.5$$

From this perspective, it becomes apparent why voters who are not confident about cooperative town budget outcomes, but confident about convincing other voters to support their views, will prefer to defect or take the risk of voting according to their own self-interest.[128] Should such voters prove correct in their hopes, their payoffs will be considerable. The failure of cooperation yields lower utility, or value, for all the stakeholders.

Polarization among voters in town budget matters, then, relies on the hope, whether or not supported by fact, that each group's desired outcome will be obtained not only in the current round of voting, but in foreseeable subsequent votes. Voting on tax issues demands cooperation but, as often as not, precipitates quite the opposite.[129]

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128. *See supra* note 107 and accompanying text.

129. This persistent failure of cooperation in tax issues can be attributed to the zero-sum quality of municipal tax votes. The binary nature of the vote silences the preferences of those voters in the minority. *See e.g.*, JOSEPH E. STIGLITZ, THE GREAT DIVIDE 96 (W.W. Norton & Co. 2015) ("When one interest group holds too much power, it succeeds in getting policies that help itself in the short term rather than help society as a whole over the long term. This is what

The voting majority stamps on the community its economic and moral ambition thereby eclipsing other perspectives. Alexis De Tocqueville, in his discerning study of the organization and machinations of the fledgling American nation warned that a society which finds and maintains its moral footing through a pathway established by the will of the majority risks excluding the values that are component in a minority view but, which left unadopted by a majority vote, are promptly dismissed as irrelevant and may be heard from no more. Thus, the tyranny of the majority risks, in addition to the loss to society of great ideas not presently promoted by the majority, all the dialogue of those promoters of the ideas who, having been turned away in a vote, retreat from the marketplace of ideas until another time, if ever again.[130]

CONCLUSION

Connecticut's property tax has its deepest roots in both theory and practice, in the earliest roots of western civilization and government. Its founding conventions connect our modern notions of property, government, local autonomy, and our requirements and expectations of government.

Local control dominates our implementing conventions of property tax. That local control yields, however, local fiscal agendas that do not readily penetrate municipal boundaries in their reflections of voter preferences. Each town expresses those preferences, through a periodic plebiscite or representational expression of how their collective resources are to be allocated.

The observable data demonstrate that the fiscal connections of the several towns in Connecticut to the state have been weakening over time and the towns become more dependent on their own source revenue generated by property tax. The resulting balkanization of the state into its constituent municipalities, while in spirit, honoring Connecticut's colonial roots, has precipitated divergence among them in both demographic and mill rate trends.

The characteristics of these trends turn out to be correlated in several respects. Age, race, and education all appear to be population attributes

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has happened in America when it comes to tax policy, regulatory policy, and public investment.")

130. No discussion of the tensions in America between the notions of a plural society and a functional democracy can reach its conclusion without acknowledging the contributions to the dialogue made by Alexis De Tocqueville. *See generally*, ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA (Colonial Press, 1899). For example, he observes in the American experiment that, while, generally, the legitimacy and continuity of a democracy are rooted in the concept of the expressed will of the majority, that process has the consequence of rendering, in a trice, irrelevant, indeed, operatively invalid, the views of the minority whose preferences did not becomes adopted as part of the majority vote. The effect, for all sociopolitical purposes, is to neutralize the minority unless it can defeat the incumbent view in the next voting cycle.

that drive property tax rates. As urbanization persists in Connecticut, some towns are losing younger, diverse, educated residents to the cities, and the residents left behind are expressing their preference for limited tax increases.[131]

Town government administrations appear to have the capacity to mitigate property tax rate increases when they establish and maintain adequate fund balances. Fiscal discipline is demonstrably effective in managing the otherwise inexorable climb of taxes.[132]

Finally, the application of game theory with imperfect information illustrates the cost and futility of the continuing zero-sum posture taken by many municipal voters. The annual budget exercise in many towns is one of hope over experience, with the parallel negative outcomes of binary voter behavior producing less utility to the stakeholders than would collaboration.

Municipal real property taxes in Connecticut represent an increasing share of town revenue with each passing year, which, in turn, shifts fiscal policy outcomes to the voters. Certain characteristics of the voters who participate in budget decisions, as explored in this article, demonstrate meaningful relationships with property tax levels over time. These correlations call our attention to particularized attributes of the voting cohort that express, and, indeed, in their position as the majority of those voting, effectively eclipse the will of the minority.

Trends in Connecticut property taxes are affected by, and affect, the demographics of each town. Local and state government policy goals, effectively formulated and consistently deployed, can evolve these taxes to become tools of, rather than mere constraints on, the economic vitality of the towns.

131. *See supra* notes 43–61 and accompanying text.
132. *See supra* Figures 14–17 and accompanying text.