

Land Conservation Act of 1965

**Santa Clara County's
Williamson Act Program**

**Santa Clara County Association
of Realtors Workshop**

June 21, 2006

1:00 p.m.

Background

- California Land Conservation Act is state statute passed in 1965, provides substantial tax break.
- Goal is preservation of agricultural land.
- State statute may be implemented by local government entering into contract with property owner.

Background, cont.

- Contract term is 10 years and automatically renews for one year each year.

- Contract may be terminated through non-renewal (9-year roll out) or cancellation (specific findings established by state statute, high fee). Contract restrictions remain in effect during non-renewal period.

- Three types of contracts:
 - 1) Agriculture; 2) Open space; and 3) Recreation which are narrowly defined by state statute.

Background, cont.

- County entered into Agriculture contracts exclusively.
- Contracted land must be devoted to commercial agriculture; compatible uses allowed if incidental to agricultural use.
- State law presumes land can sustain commercial agriculture if at least 10 acres prime land, or 40 acres non-prime land.

Background, cont.

- 2001-02 Planning Office reviewed County's Williamson Act program, Board adopted program revisions as high priority work plan item.
- 2002 State audit raised issues with County allowing subdivision and development of contracted land not in agricultural use.
- 2005 County formed Stakeholder committee and solicited public input on program revisions.

Background, cont.

 March 14, 2006 Board of Supervisors adopted guidelines and programmatic changes that:

- 1) Clarified definition of commercial agriculture and compatible use criteria.
- 2) Adopted Open Space Easement transfer program.
- 3) Adopted monitoring /enforcement program including contract non-renewal procedures.

Background, cont.

- May 2, 2006 Board of Supervisors adopted Agricultural Preserves.
- May 23, 2006 Board of Supervisors adopted ordinance revising County's Williamson Act Ordinance and creating new Open Space Easement program.

Agricultural Preserves

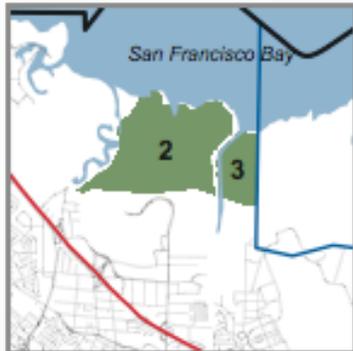
- Required by state statute - areas where County will consider entering into Williamson Act contracts.
- Must be at least 100 contiguous acres.
- Zoning must be consistent with agricultural use - AR, A, HS (some RR parcels in San Martin).

Agricultural Preserves, cont.

- No harm to owners in Preserve that are not restricted by Williamson Act contract.
- May 2, 2006 Board of Supervisors adopted 10 Preserves (1 large, 9 small).

Santa Clara County's Agricultural Preserves

Adopted by the Board of Supervisors May 2, 2006



Preserves 2 and 3



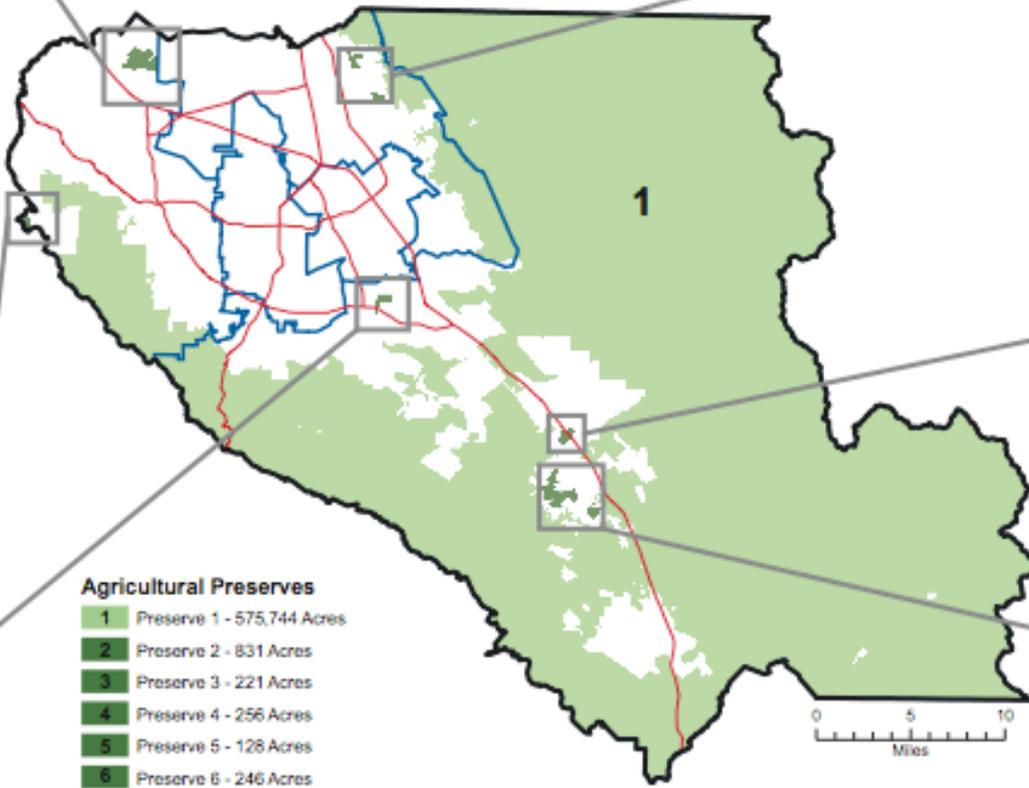
Preserves 4 and 5



Preserve 6



Preserve 8



- Agricultural Preserves**
- 1 Preserve 1 - 575,744 Acres
 - 2 Preserve 2 - 831 Acres
 - 3 Preserve 3 - 221 Acres
 - 4 Preserve 4 - 256 Acres
 - 5 Preserve 5 - 128 Acres
 - 6 Preserve 6 - 246 Acres
 - 7 Preserve 7 - 300 Acres
 - 8 Preserve 8 - 350 Acres
 - 9 Preserve 9 - 1,057 Acres
 - 10 Preserve 10 - 175 Acres
- Supervisory Districts
 County Boundary
 Freeways



Preserve 7



Preserves 9 and 10

Map by BAZ, May 24, 2006. Produced by Planning Office TeamGIS.

Guideline for Commercial Agriculture

- Contracted land must be devoted to the commercial production of agricultural commodities.
- Agricultural commodities are unprocessed products of farms, ranches and production nurseries.
- Horse-related uses are not considered commercial agricultural production, but may be a compatible use (not primary use of property).

Guideline for Commercial Agriculture, cont.

- Different guidelines for “standard” size parcels (10 acres prime land or 40 acres non-prime land) and “substandard” size parcels.
- Prime and non-prime land classification is based on soil type.
- General evaluation criteria considers: 1) parcel size; 2) % of parcel used for agriculture; 3) revenue; and 4) agricultural history.

Guideline for Commercial Agriculture, cont.

Requirements for “standard” size prime and non-prime land parcels:

1) At least 60% of parcel must be used for commercial agriculture; and

2) Farm revenue in 3 of last 5 years must be substantiated with verifiable documents (eg. tax records) and validated by affidavit.

No minimum revenue requirement.

Guideline for Commercial Agriculture, cont.

 Requirements for “substandard” size prime land parcels:

- 1) At least 75% of parcel must be used for commercial agriculture; and
- 2) At least \$3,500 annual gross farm revenue in 3 of last 5 years must be substantiated with verifiable documents (eg. tax records) and validated by affidavit.

Guideline for Commercial Agriculture, cont.

 Requirements for “substandard” size non-prime land parcels:

- 1) At least 75% of parcel must be used for commercial agriculture; and
- 2) At least \$2,000 annual gross farm revenue in 3 of last 5 years must be substantiated with verifiable documents (eg. tax records) and validated by affidavit.

Guideline for Commercial Agriculture, cont.

Requirements for “income option” for prime land parcels:

1) “Standard” size parcels must have \$1,000 per acre in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit; or

2) “Substandard” size parcels must have \$10,000 minimum in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit.

Guideline for Commercial Agriculture, cont.

Requirements for “income option” for non-prime land parcels:

- 1) “Standard” size parcels must have \$250 per acre in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit; or
- 2) “Substandard” size parcels must have \$10,000 in annual gross farm revenue in 3 of last 5 years substantiated with verifiable documents and validated by affidavit.

Guideline for Commercial Agriculture, cont.

Requirements for timber production:

- 1) Property must be “standard” size non-prime land parcel or prime land parcel at least 40 acres in size; and
- 2) Parcel must produce timber or other forest products under active Non-Industrial Timber Management Plan, active Timber Harvest Plan or Timber Harvest Plan filed and executed within last 15 years.

Guideline for Compatible Use Development on Restricted Lands

- Any land proposed for development must be devoted to commercial agriculture and comply with Guideline for Commercial Agriculture.
- Development must be both compatible with and incidental to the agricultural use of the property.
- Commercial agriculture must continue to be the primary use of the property.

Compatible Use Development, cont.

- Compatible uses limited to 10% of the parcel, 5-acre maximum.
- Properties using “income option” of Guideline for Commercial Agriculture must have at least 50% of parcel in commercial agricultural use to ensure agriculture remains the primary use.
- All contract terms, including development restrictions, apply during 9-year non-renewal period.

Exchange of Williamson Act Contract for Open Space Easement

- State law allows for the exchange of a Williamson Act contract for an Open Space Easement under a different state law (Open Space Easement Act of 1974).
- Definition of “open space” under other law is very broad.
- Land must be at least 5 acres and meet other findings.
Public access is not required.

Open Space Easement, cont.

- Easement term is 15 years and automatically renews for one year each year, unless non-renewed.
- Agriculture not required under Open Space Easement.
- Tax benefit will depend on how the easement restrictions affect the property value.

Open Space Easement, cont.

- Owner selects level of development restriction depending on desired level of potential tax benefit:

- 1) No development;
- 2) Development restricted to 1,000 sq. ft. and no secondary dwelling; or
- 3) Development restricted to 5% of parcel (5-acre maximum) with enhanced design review required.

- No subdivision allowed.

Contract Administration, Monitoring and Enforcement

Non-renewal of “substandard” size parcels:

- 1) In 2006 and 2007 County will non-renew “substandard” size parcels without an existing commercial agricultural use and those contracted parcels outside the adopted Agricultural Preserve.
- 2) Owner will have 60 days to protest notice of non-renewal.
- 3) County will withdraw notice if owner demonstrates land has existing commercial agriculture.

Contract Administration, Monitoring and Enforcement, cont.

Non-renewal of “substandard” size parcels, cont:

- 4) Parcels may be used collectively for commercial agriculture and remain under contract if owners sign and record a joint management agreement.

- 5) Property tax may increase during non-renewal period in accordance with tax code formula established by State law.

Contract Administration, Monitoring and Enforcement, cont.

 Non-renewal of “substandard” size parcels,
cont:

- 6) Any resulting tax increase may be delayed for first 3 years if owner “protests” non-renewal.
- 7) Contract restrictions remain in effect during 9-year roll out period.

Contract Administration, Monitoring and Enforcement, cont.

- Development proposals trigger review of contract compliance. No permits issued until all criteria met.
- Establishment of process for interpretation of guidelines, decisions may be appealed.
- Increased follow-up on Agricultural Questionnaire mailed by Assessor.
- Staff to audit all contracted lands at least every 3 years to ensure contract compliance.

Contract Administration, Monitoring and Enforcement, cont.

- Enhanced public education and outreach. County ordinance requires disclosure as part of real estate transactions.

- Adoption of fees for Open Space Easement transfer, review of development applications, enforcement action, and failure to return Agricultural Questionnaire.

- Enforcement action/penalties for “material breach” of contract under state law (AB 1492).

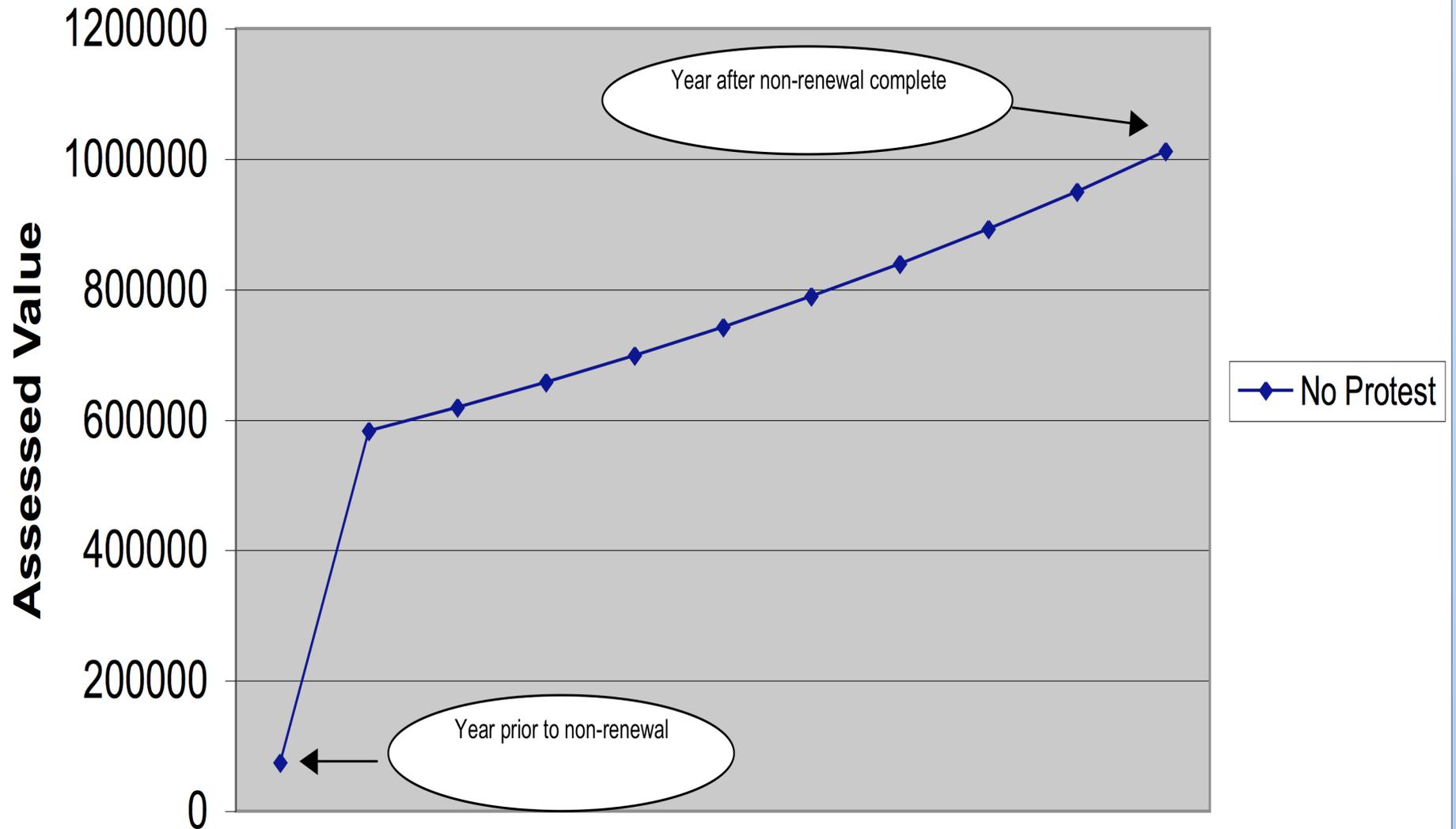
Impact on Assessed Valuation

- Determine land value as if **not** under Williamson Act (Prop. 13 value).
- Determine land value under Williamson Act (Revenue & Taxation code 423).
- Discount difference between non-restricted and restricted value, for # of years remaining in non-renewal period (Revenue & Taxation Code 426)

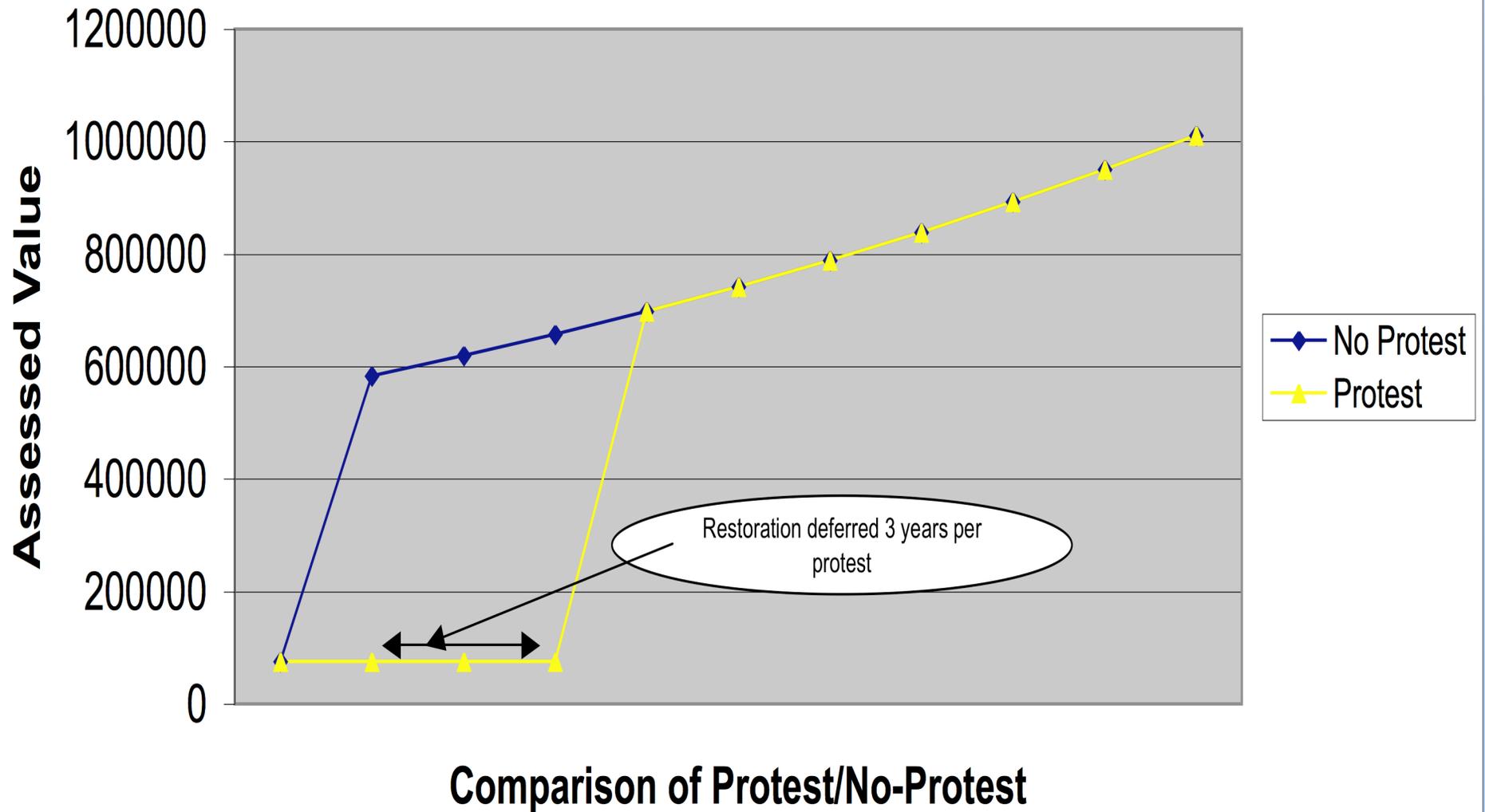
Impact on Assessed Valuation, cont.

- Add discounted value to restricted value.
- Repeat process for each year property is in non-renewal.
- Each year, the **lower** of value calculation above or current market value is enrolled for purposes of taxation.

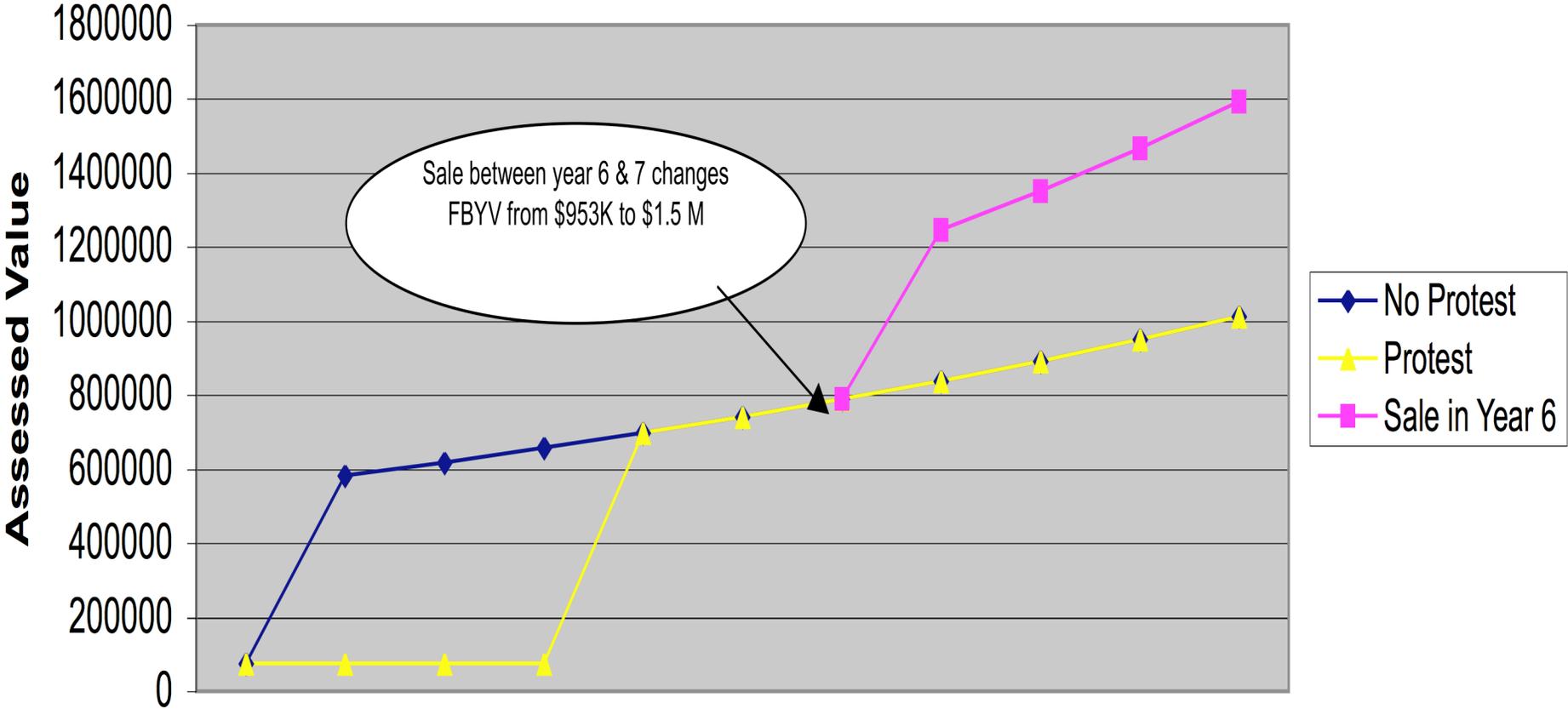
Non-Renewal Impact on Assessed Value



Non-Renewal Impact on Assessed Value



Non-Renewal Impact on Assessed Value



Comparison No-Protest, Protest & Sale During non-Renewal