

Sprawling by the Lake: How IDA-Granted Property Tax Exemptions Undermine Older Parts of the Buffalo/Niagara Metro Area

by

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Executive Summary

An examination of the geographic distribution of property tax exemptions given to businesses in 2005 by the nine state-regulated Industrial Development Agencies (IDAs) in the Buffalo/Niagara metro area reveals they have subsidized job creation outside of the region's oldest, most densely populated and most transit-accessible areas, despite the fact those areas are most in need of jobs and reinvestment. The exemptions' sprawling, pro-suburban bias is especially evident in Erie County and far less problematic in Niagara.

The findings suggest that economic development tax breaks are worsening what is often called a "spatial mismatch" in many U.S. urban areas, with poverty and unemployment concentrated at the core and new job creation occurring mostly in suburban areas. By any common measure, the central cities of Buffalo and Niagara Falls need the most economic help: they have more poverty, lower family incomes, lower tax base wealth, and by far the most plant closings of any communities in the region. Yet the disproportionately high share of IDA-granted tax exemptions in wealthy suburbs such as Amherst shows that these state-regulated incentives are being used to attract investment outside of the region's neediest areas.

Like many other upstate New York regions, the Buffalo/Niagara metro area (composed of Erie and Niagara counties) has been sprawling, with land consumption marching on despite the fact that population has been decreasing since the 1970s. The result, as noted in the newly released *Framework for Regional Growth* for the two counties is that sprawling development has "reduced the livability of older neighborhoods, eroded the competitive position of traditional centers of commerce and industry; increased fiscal stress; isolated low income, minority and elderly residents; and threatened the resources that make the region an attractive place to live."¹

Additionally, sprawling commerce and industry have led to increased traffic congestion, longer commuting times and worse air quality for all of the region's residents. To be sure, sprawl in the Buffalo/Niagara metro area has a long history and multiple causes, but economic development deals that steer jobs and investment away from the region's central cities – as do many IDA exemptions – fuel the problem.

Based on our findings, we offer the following policy options:

1. Require IDAs to report precise project street addresses on their websites and to the State Comptroller so that taxpayers and public officials can better see where tax dollars are being spent. Currently, the NYS Office of Real Property Services is

the only statewide source that has street address information for specific project sites.

2. Strengthen existing “anti-piracy” provisions in the laws governing IDAs. Technically under law, IDAs may not offer incentives to companies moving from one area in the state to another, but the law contains loose exceptions. This leaves New York’s cities susceptible to job poaching from newer, wealthier, less developed areas.
3. Require IDA subsidies to conform to regional plans, including possible mergers. Having multiple, overlapping IDAs in a single labor market – Buffalo/Niagara has nine – is at best a disincentive for IDAs to focus on the truly relevant regional issues and at worst a recipe for wasteful zero-sum job poaching. Having a single IDA per metro area would best promote the overall regional interest.

Our findings are based upon a geographic analysis of the locations of one form of IDA assistance – real property tax exemptions – using data obtained from the New York State Office of Real Property Services (ORPS). We examined all property tax exemptions for individual parcels as reported on the 2005 ORPS assessment rolls.

Industrial Development Agencies (IDAs)

Each county in New York State has at least one IDA, except Washington and Warren Counties, which share one, as do the five counties that make up New York City. However, some counties have multiple IDAs, each of which is able to provide subsidy deals to companies locating in their county, town, city or village. The State has a total of 115 active IDAs in its 62 counties (57 plus New York City). Albany, Erie, Orange and Westchester counties have the greatest number of overlapping IDAs in the state.

IDAs are legally enabled and regulated by the State and they are the vehicle through which most large discretionary economic development subsidies are granted throughout New York. The incentives granted by IDAs include: state and local sales tax exemptions, mortgage recording tax exemptions, tax exempt Industrial Revenue Bonds, and real property tax exemptions. When IDAs take title to industrial and commercial properties and rent them back to the companies that operate in them, that makes the properties tax-exempt, and ORPS records them as such. The operating companies generally make payments in lieu of taxes, or “PILOTs,” which are almost always less than their real property taxes would have been. The value to businesses of the exemptions is the difference between what their real property taxes would have been and any PILOT payments they make.

There are six IDAs in Erie County alone, one for the entire county and five more in the suburban towns of Amherst, Clarence, Concord, Hamburg and Lancaster. The Amherst IDA is by far the most active of the suburban IDAs. Niagara County has three more IDAs, one for the county and two more for the towns of Lockport and Niagara, but the city of Niagara Falls had by far the largest share – 46 percent – of IDA property tax exemptions in the county in 2005.

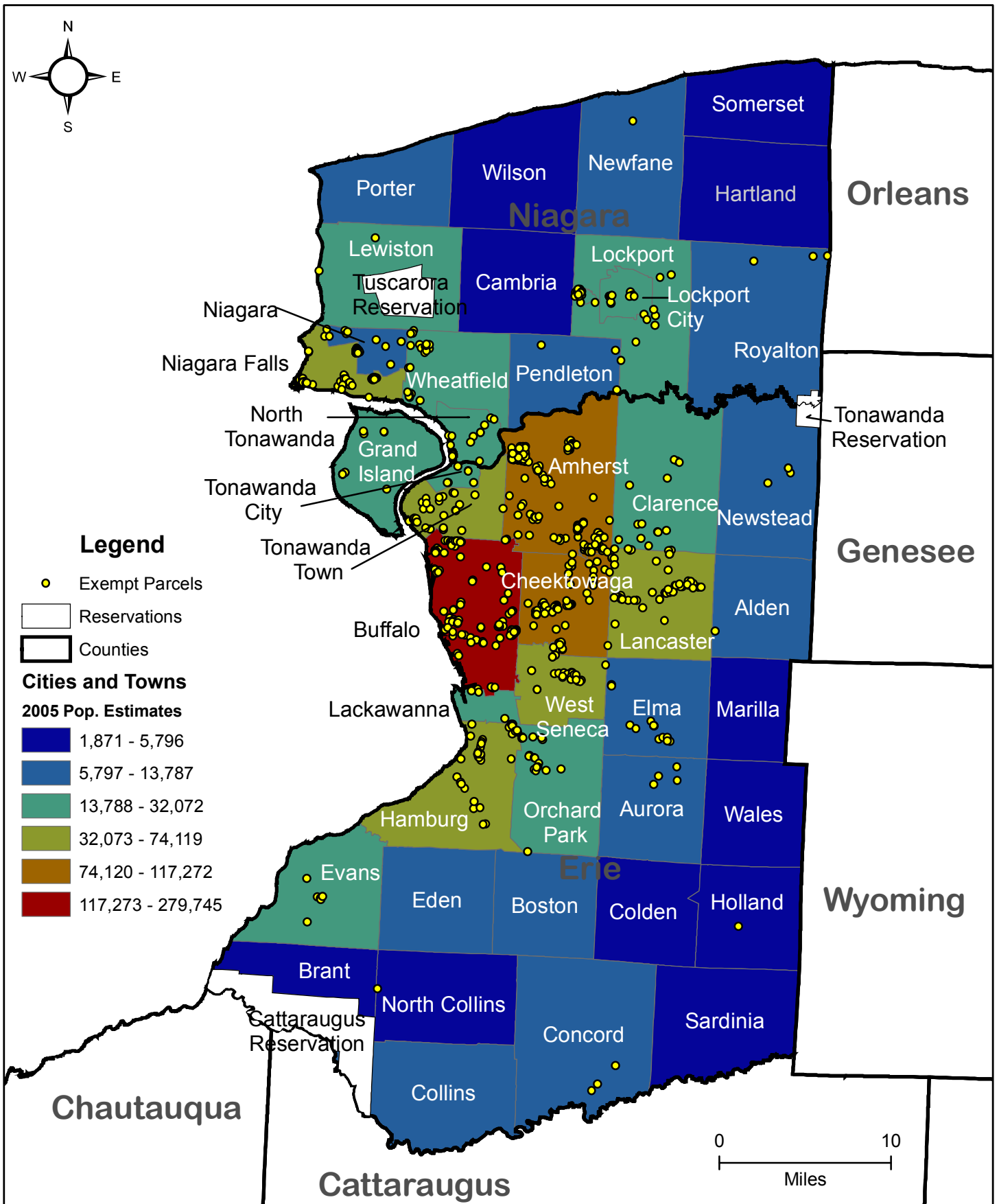
Amherst had more IDA-granted real property tax exemptions in 2005 than any other city or town in the region, and the Amherst IDA made almost all of these deals. The other town IDAs were much less active, though their communities still had more IDA-granted exemptions than did many of the region’s other municipalities. So the large amount of activity by the Amherst IDA is the biggest reason for the disproportionate share of suburban deals.

The Erie County IDA granted more property tax exemptions in Buffalo than in any other single jurisdiction, about one third of its deals. That share roughly mirrored the city’s population, with the second largest number of exemptions in the neighboring town of Cheektowaga.

Tax Breaks and Population: Suburbs Favored

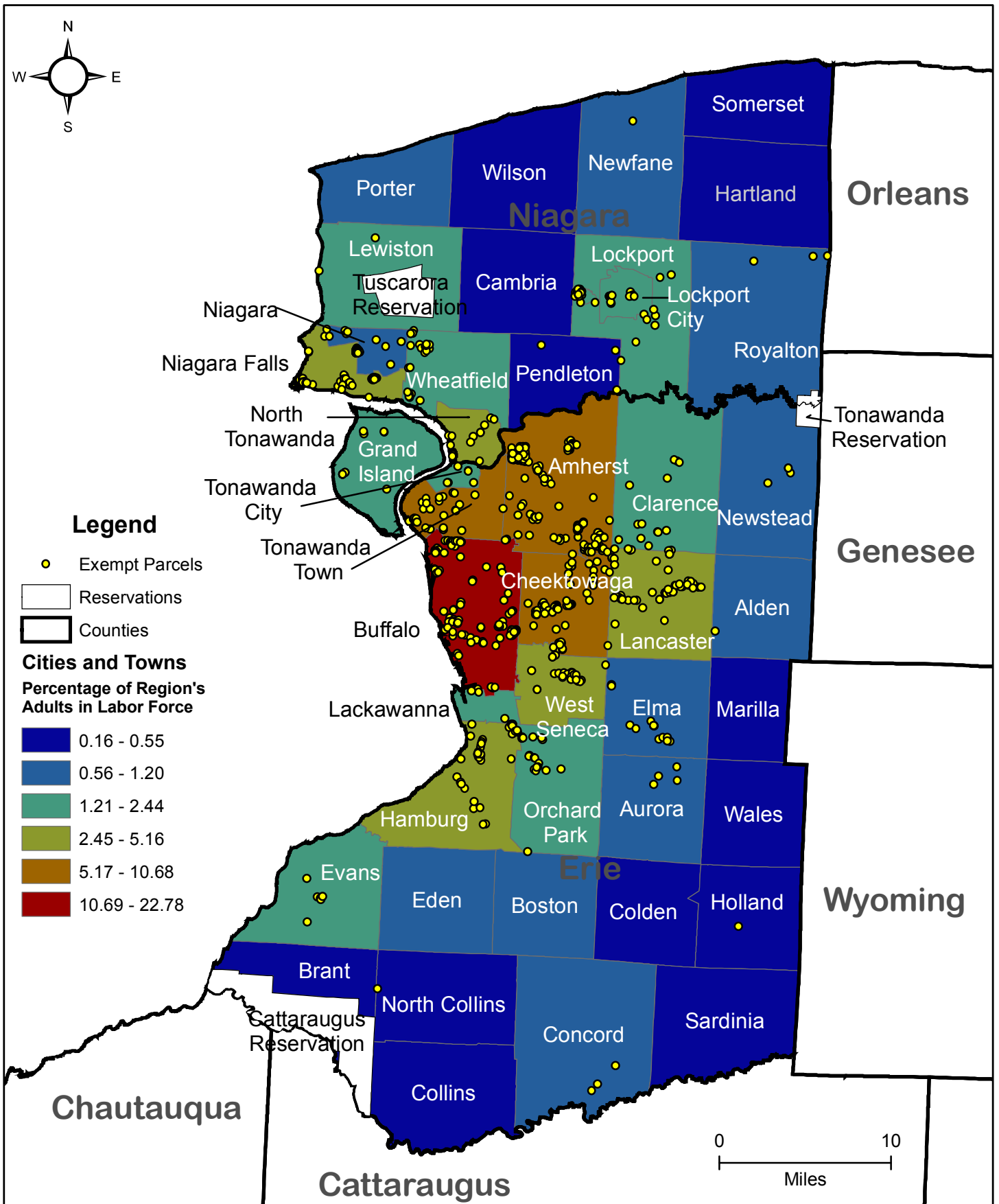
Despite its declining population, the city of Buffalo still has almost two and a half times the population of any other municipality in the region. But, as Figure 1 shows, even with a quarter of the metro area's population² and a larger share of the region's workers than any other municipality – 23 percent (Figure 2) – the ORPS data shows that only about 13 percent of the region's IDA tax-exempted properties were in the city of Buffalo.³ Buffalo contains 30 percent of Erie County's population, but only had 17 percent of its IDA property tax exemptions. The regional majority of exemptions were in suburban communities, especially Amherst.

Figure 1. IDA Property Tax Exemptions in 2005 vs. 2005 Population Estimates



Sources: Parcel Information - NYS Office of Real Property Services
 Population Figures - US Census Population Division, Annual Estimates, 2005

Figure 2. IDA Property Tax Exemptions in 2005 vs. Percentage of Region's Adults in Labor Force



Sources: Parcel Information - NYS Office of Real Property Services
 Demographics - 2000 US Decennial Census

Tax Breaks and Wealth: the Rich Get Richer

There is a stark difference between the region's central cities – especially Buffalo and Niagara Falls – and their suburbs in their rates of household poverty and tax base wealth.

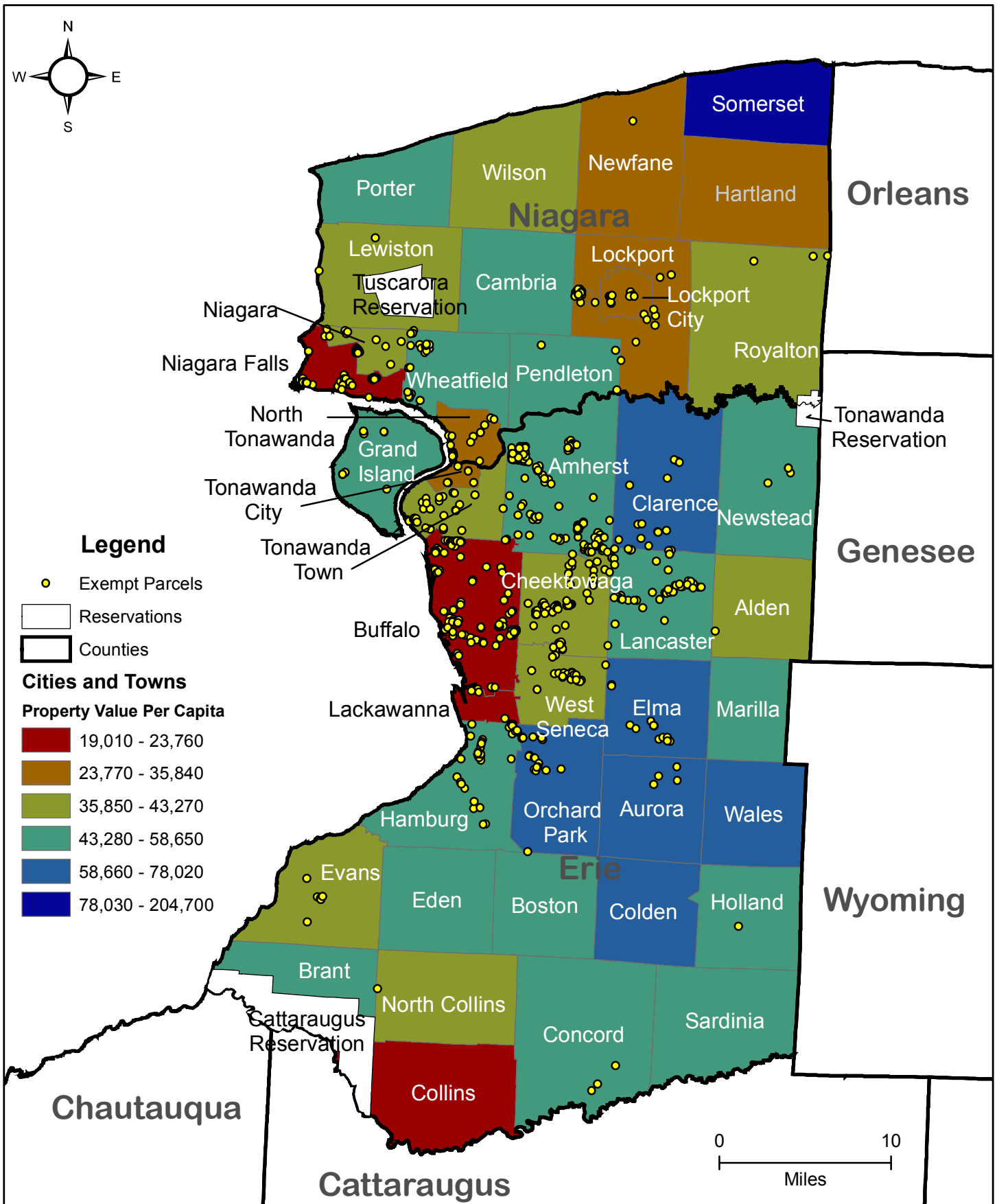
The amount of full taxable real property value a locality has per capita is a measure of its tax base wealth, a good gauge of the financial resources available to support public infrastructure and basic local services, such as education. As Figure 3 shows, the cities of Buffalo and Niagara Falls rank among the lowest by this measure compared to other municipalities in the region, with Buffalo having the lowest tax base wealth at only \$19,010 per capita (full taxable real property value in 2005 divided by total population in 2005).

Part of this results from declining property values that has accompanied inner-city disinvestment. Another reason for the low values is the large number of property tax exemptions granted by the Erie and Niagara County IDAs (and by other entities under the Empire Zone and other programs). These exemptions have taken many buildings in Buffalo and Niagara Falls off of the tax rolls. Yet even though some suburban towns – most notably Amherst with the greatest number of IDA property tax deals in the region – also contain large numbers of tax exempt buildings, they still fare comparatively well in this measure because they have far healthier tax bases to begin with. Figure 3 makes it apparent that wealthier communities like Amherst, Clarence, Hamburg, Lancaster and Concord, each with its own IDA, can afford to give away lots of tax revenue to attract more jobs and investment and still have comparatively strong tax bases for public services.

Figure 4 shows median household incomes in 1999 at the town and city level; again there are large discrepancies between the region's central cities and even their bordering suburbs. Buffalo ranks lowest with a median household income of only \$24,536 and Niagara Falls is barely higher at \$26,800. Amherst, by contrast, ranks high among localities in the region, with a median household income of \$55,427, more than twice that of the two central cities. Communities with the highest median incomes in Erie County include Clarence, Grand Island and Orchard Park, all of which had substantial numbers of IDA property tax deals. Clarence, with its own IDA, has the highest median household income in the region.

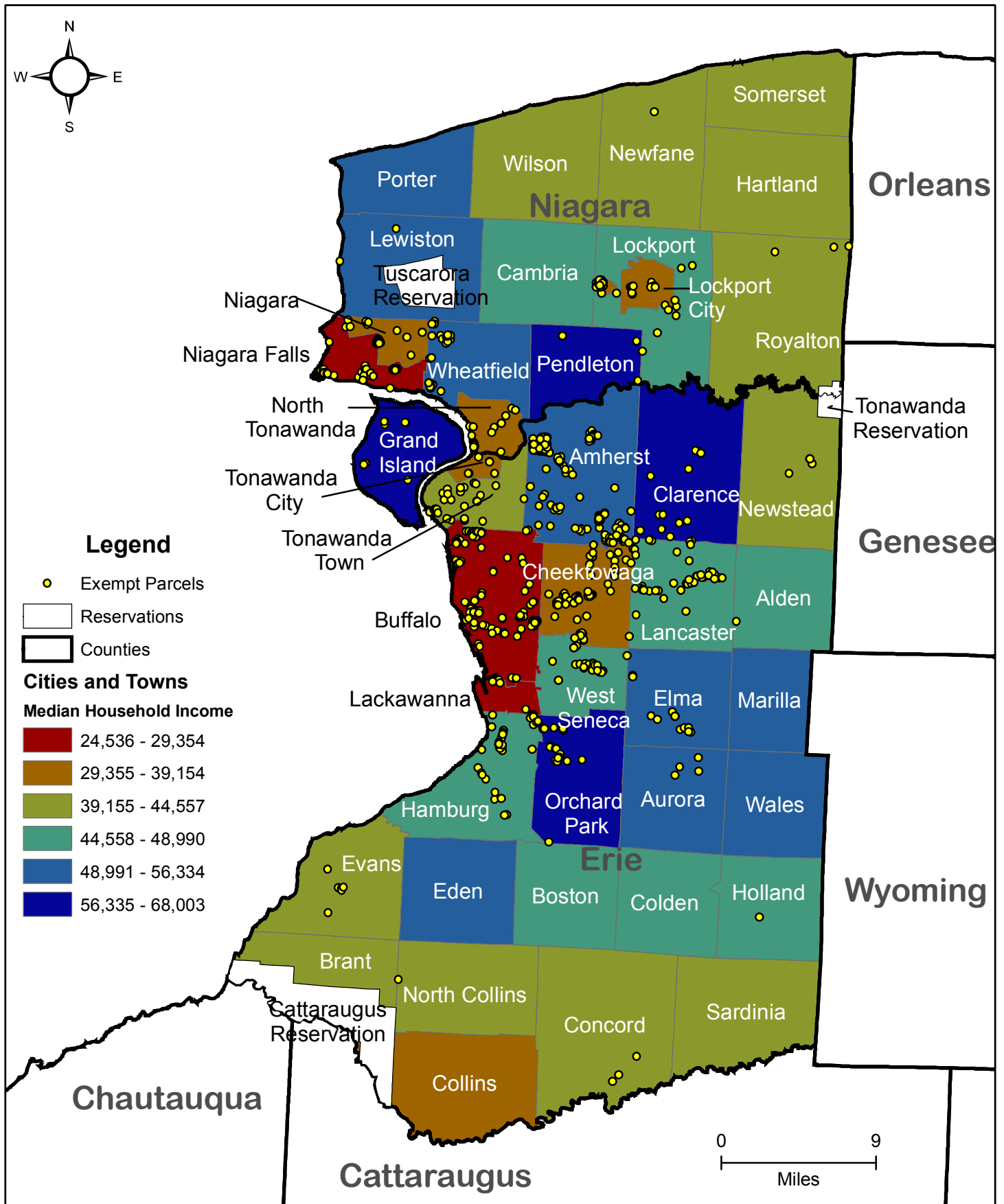
The only census tracts with more than 20 percent of households in poverty – a commonly used threshold of high poverty concentration – are in the region's cities of Buffalo, Lackawanna, Niagara Falls and Lockport, and in one tract in the town of Tonawanda (Figure 5). No other suburban communities, including inner ring suburbs, are experiencing such concentrated poverty. Most striking is the large concentration of

Figure 3. IDA Property Tax Exemptions in 2005 vs. 2005 Taxable Property Value per Capita



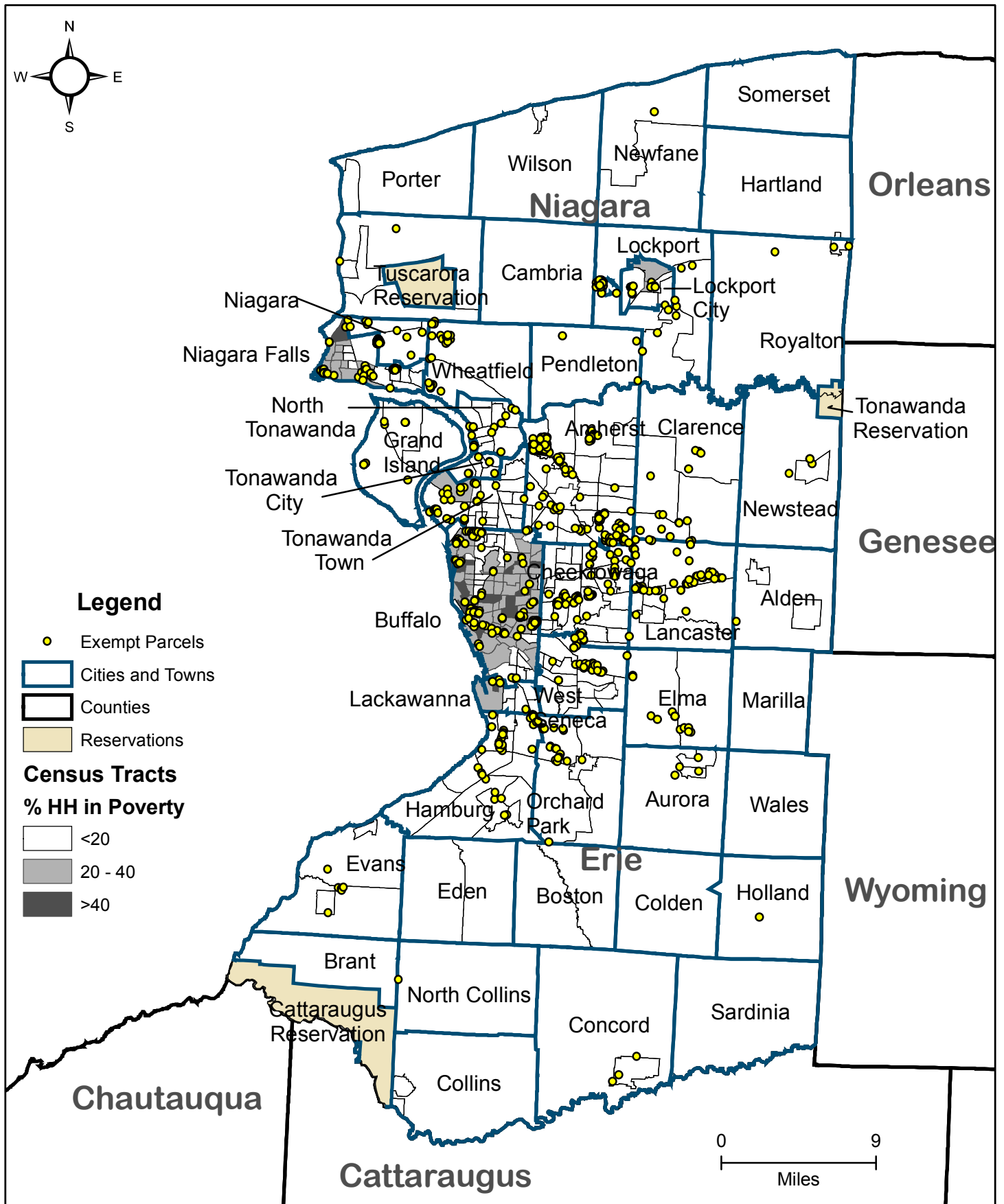
Sources: Parcels-NYS Office of Real Property Services; Property Values - NYS Comptroller; Population Figures - US Census Population Division, Annual Estimates, 2005

Figure 4. IDA Property Tax Exemptions in 2005 vs. Median Household Income



Sources: Parcels - NYS office of Real Property Services
 Demographics - 2000 US Decennial Census

Figure 5. IDA Property Tax Exemptions in 2005 vs. Percent of Households in Poverty by Census Tract



Sources: Parcels- NYS Office of Real Property Services
Demographics - 2000 US Decennial Census

poverty in Buffalo, which also contains a number of census tracts with highly concentrated poverty (defined as more than 40 percent of households in poverty). Niagara Falls and Lackawanna also contain tracts with highly concentrated poverty, with the one in Lackawanna bordering Buffalo.

Tax Breaks and Race: Similar Disparities

The suburban communities with disproportionately high shares of IDA property tax deals are not only wealthier than the central cities, they are also whiter. Buffalo has by far the largest number and share of people of color in the region (Figure 6). Over 45 percent of Buffalo's population is non-white and over 37 percent of the entire population is Black or African-American. In Amherst, by comparison, only about 11 percent of the population is non-white, and only about 4 percent is Black or African American, with Asians composing the largest racial minority in the town. (Amherst has more residents of Asian descent than any other municipality in the region, including Buffalo.) The only other municipalities in the region with significant shares of people of color are Niagara Falls (about 24 percent) and the town of Collins (33 percent).

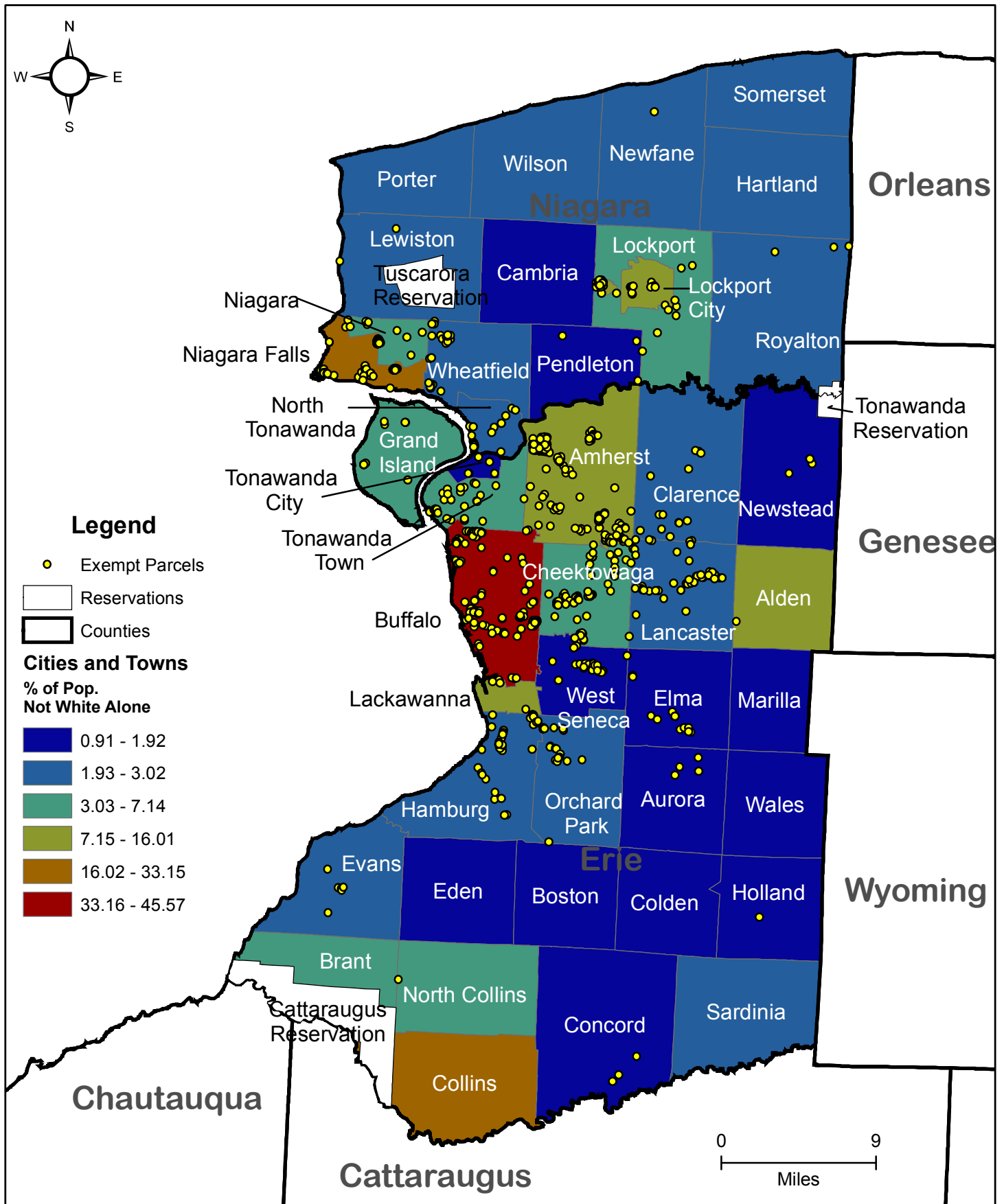
Tax Breaks and Worker Dislocation: Spatial Mismatch

Figure 7 shows the location of business closings and mass layoffs⁴ as recorded under the federal Worker Adjustment and Retraining Notification, or WARN, Act in Buffalo and Niagara Counties in 2004 and 2005. Almost 40 percent of these business closings and mass layoff sites (13 out of 33) and over 61 percent of the dislocated workers (1,506 out of 2,459) were in Buffalo.

Comparing those shares to the 17 percent of IDA tax-break deals Buffalo received shows how, over time, disproportionate job loss at the core and disproportionate job subsidization in the suburbs hollows out the region, causing sprawling imbalances with all the resulting fiscal stress, concentrated poverty, and commuting problems.

Another long-term effect is a depressed commercial real estate market in Buffalo. Robert Shibley, a professor in planning and architecture at the University of Buffalo, estimates that the city has a 28 percent commercial vacancy rate.⁵

Figure 6. IDA Property Tax Exemptions in 2005 vs. Percent of Non-White Population



Sources: Parcels - NYS Office of Real Property Services; Demographics - 2000 US Decennial Census

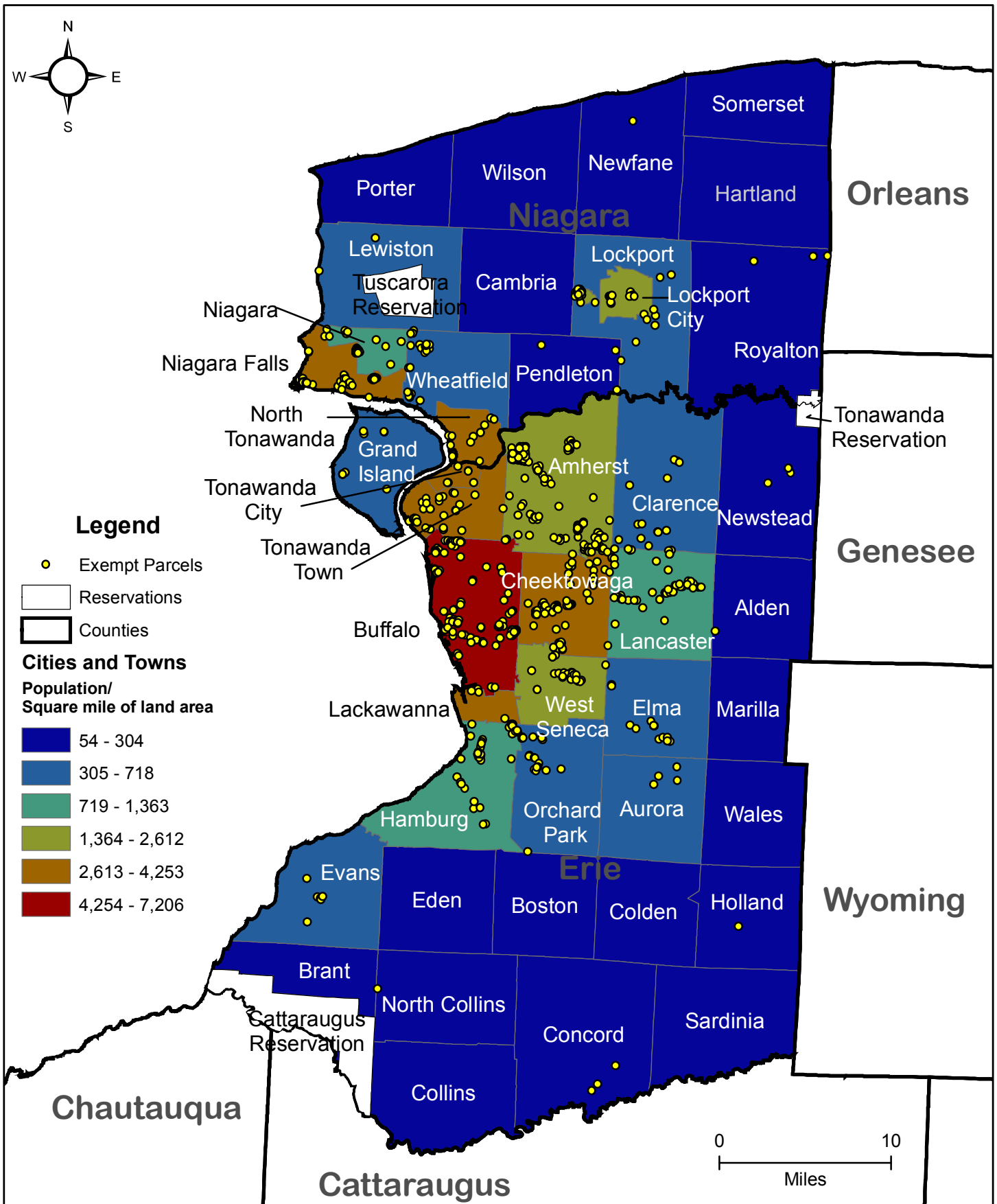
Tax Breaks, Workforce Density, and Commuting Options

Job opportunities in the region's central cities, especially Buffalo, are the most accessible by public transit to the greatest number of people. Both Buffalo and Niagara Falls have high concentrations of resident workers and of households without a car. The region boasts an impressive and extensive public transportation system, and the city of Buffalo is best served – making new jobs there the most accessible to low-income car-less workers and therefore the best locational investments for reducing poverty.

The city of Buffalo has the largest population in the region as well as the highest density, at about 7,206 residents per square mile (Figure 8). Amherst by comparison is less than a third as dense, with 2,188 residents per square mile. Buffalo also has the largest share of the region's workforce, 22.8 percent (Figure 2) and the densest concentration of workers, with 3,214 adults in the labor force per square mile (Figure 9).

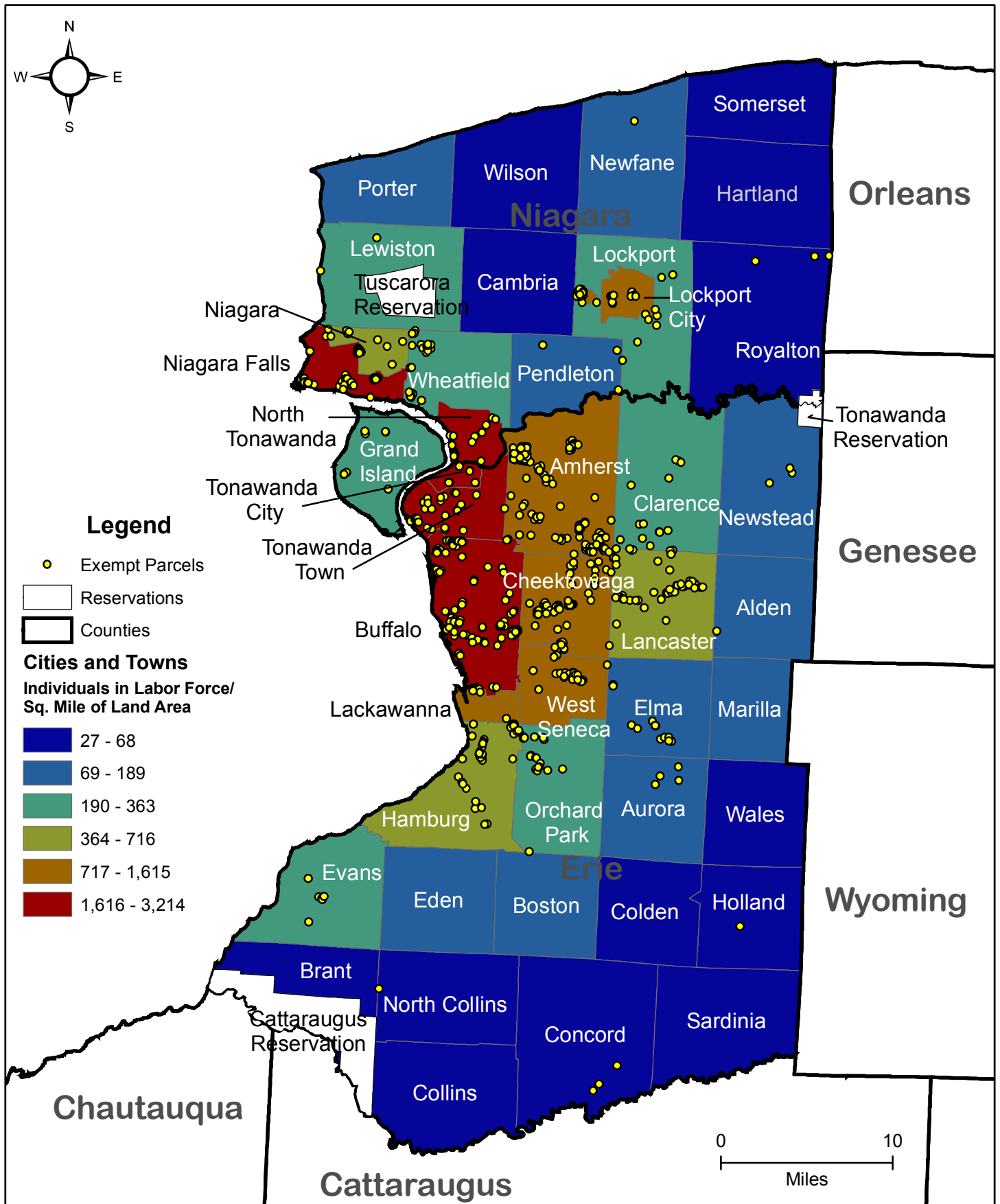
The number of people ages 16 and over in the labor force is a U.S. Census category that includes both employed individuals and those who are unemployed but still in the labor force (temporarily unemployed or seeking a job). It does not include discouraged workers who have given up looking for work, as this information is not available at the municipal level. In all likelihood, if discouraged workers were included, the workforce density for Buffalo would be even higher. The town and the city of Tonawanda both also have large workforce populations, as does Niagara Falls. While wealthier inner ring suburbs also have relatively high workforce densities compared to the region's other communities, they are still much less dense than Buffalo. Amherst is home to 1,149 adults in the labor force per square mile – less than half of Buffalo's workforce density.

Figure 8. IDA Property Tax Exemptions in 2005 vs. Population Density



Sources: Parcels - NYS Office of Real Property Services
 Demographics - 2000 US Decennial Census

Figure 9. IDA Property Tax Exemptions in 2005 vs. Labor Force Population Density



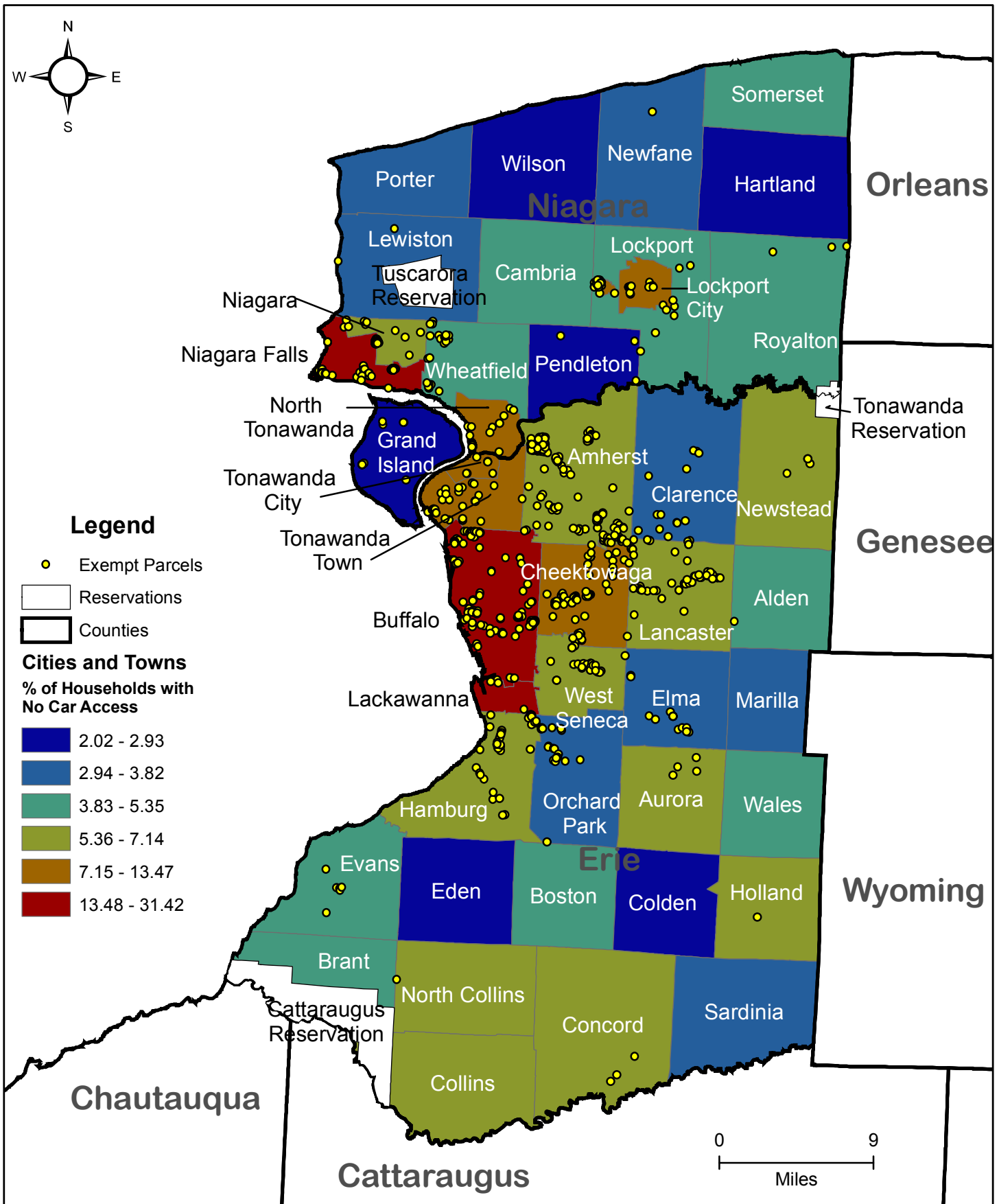
Sources: Parcels - NYS Office of Real Proeprty Services;
Demographics - 2000 US Decennial Census

Figure 10 shows the percentage of each town and city's households without a car, i.e., those who are transit-dependent. Buffalo tops the list with over one-third of households without private automobile access. The cities of Niagara Falls and Lackawanna also have many residents who cannot drive to work – 22.5 percent and 23.8 percent, respectively.

The Niagara Frontier Transit Authority has an extensive public transportation system which serves the region's cities well (Figure 11). The high population densities in Buffalo and Niagara Falls make service most efficient in these cities. As the map shows, transit routes are concentrated in Buffalo and emanate outward from it. Most inner-ring suburbs also have a number of bus lines, and many of the Amherst IDAs property tax deals we examined are in office parks located near transit routes, however the quality of service in Amherst and other suburbs varies. Some bus routes run only during rush hours, a schedule that may not suit the needs of, say, janitorial, maintenance or security staff who often work late hours, but some routes run from early in the morning until after 11 at night.⁶

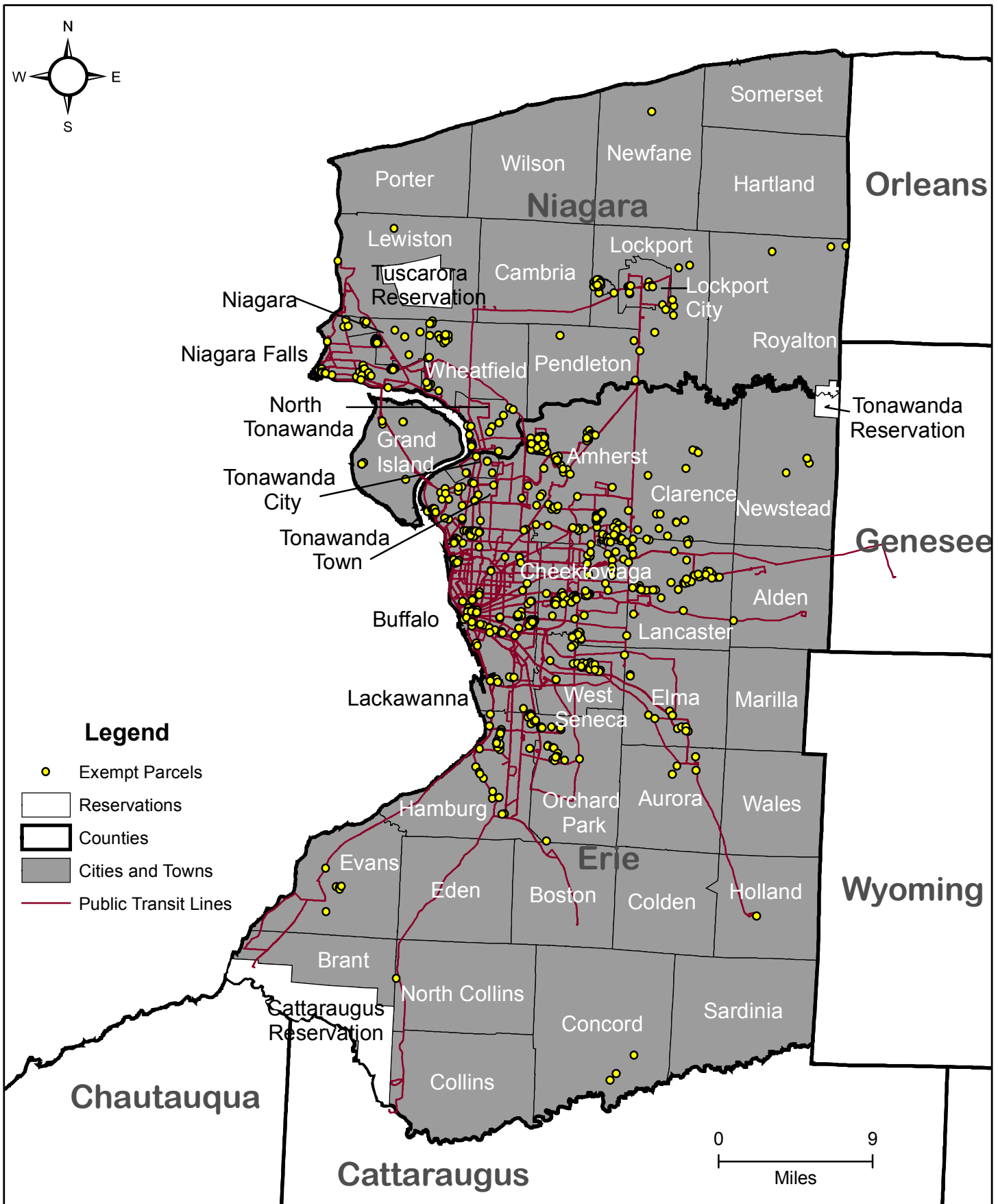
Regardless, getting to any worksite in Amherst from Buffalo requires transfers (no line goes directly from Buffalo into the town) and sometimes requires a lot of walking. Jobs outside the inner ring suburbs are even more difficult for those without access to a car to reach, if not completely impossible. No bus lines run through the town of Clarence, for example.

Figure 10. IDA Property Tax Exemptions in 2005 vs. Percent of Households Without Access to a Car



Sources: Parcels - NYS Office of Real Property Services; Demographics - 2000 US Decennial Census

Figure 11. IDA Property Tax Exemptions in 2005 vs. Public Transit Lines



Sources: Parcels- NYS Office of Real Property Services
 Transit Routes - Niagara Frontier Transportation Authority

Conclusion: Policy Options

Based upon our findings, we offer the following policy options:

#1: Require IDAs to report precise project street addresses on their websites and to the State Comptroller

It is difficult for taxpayers or public officials to obtain complete, accurate project location information and fully understand the geography of IDA deals because of deficiencies in the law governing IDA reporting requirements. Article 18A, Section 859 of the General Municipal Law requires IDAs to report their financial records, including project-specific information, to the State Comptroller. However, the only address IDAs are required to report is that of the owner of the project, which often is not the same as the project site and is sometimes even out of state. IDAs are not required to disclose the street address of the project site, though the Erie County IDA now laudably lists current project site addresses on their website, but other IDAs still do not. The New York State Office of Real Property Services (ORPS) is the only state agency that has address information for project sites receiving real property tax exemptions (hence our ability to perform this study), but it does not have project site addresses for other forms of IDA assistance.

Similarly, ORPS records often lack the company name of the project because most buildings are owned by the IDAs themselves (since they usually take title to property). This makes comparisons between the the data sets held by ORPS and the Comptroller extremely difficult.

#2: Strengthen existing “anti-piracy” provisions

Article 18A, Section 862 of the General Municipal Law creates restrictions on agency funds, the first of which is that IDAs may not provide assistance to any projects relocating from one area of the state to another. However, the law contains loose exceptions. If an IDA determines that a project is “reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry,” then the IDA may provide subsidies. Legally then, if an IDA wants to lure jobs and investment from one area of the state into its jurisdiction, it has the discretion in deciding whether it can do so.

There is no state or regional repository of data on IDA-subsidized intrastate movement, but there is anecdotal evidence. A high-profile dispute resulted in a court case, *Main*

Seneca Corporation v. Town of Amherst Industrial Development Agency; BDO Seidman, LLP, in which the New York State Court of Appeals upheld a lower court's decision that the Amherst IDA had illegally pirated jobs from the city of Buffalo. The company was subsequently forced to pay the taxes it had avoided in its deal with the Amherst IDA to its new town of Amherst. Buffalo received no compensation for the jobs it lost as a result of the illegal deal (and Amherst won both new jobs and tax revenue). The protracted case began in the mid-90s but the final court decision was not reached until 2003.

In 2001, the six different IDAs in Erie County jointly established uniform procedures, one of which addresses intermunicipal movement: it says a municipality losing a company has to be notified by the winning IDA and the chief elected officer of the losing municipality can provide a response to be considered by the IDA board, but explicitly notes: "This not need be a 'sign off' or an approval of the relocation." The uniform procedures also specify that if a company proposes to relocate from the city of Buffalo to another municipality in the county, the ECIDA (not any town's IDA) will ultimately decide whether or not to approve the application.

These procedures are laudable and could serve as examples for other New York counties. However, absent changes to the state's anti-piracy provision, New York's cities are still susceptible to job poaching, both within their counties and metro areas and outside of them. The simplest way to strengthen the anti-piracy provisions would be to eliminate the state law's exceptions. Alternatively, it could be amended to grant a losing municipality the right to veto IDA assistance elsewhere in the state. Meaningful penalties could also be established for IDAs that actively recruit and violate the intent of the anti-piracy law.

Another safeguard would be to require the applicant company to file an impact statement detailing how workers' commutes (including Vehicle Miles Traveled) will be affected, how many workers will likely choose not to make the new commute and therefore be dislocated, whether the new worksite is transit-accessible and a reasonable commuting distance from the vacated site, whether the facility being vacated is contaminated, and whether it has an incoming occupant or will become abandoned.

As long as there are IDA-subsidized corporate relocations within the state, they should be reported to the State Comptroller as part of an IDA's reporting requirements, and disclosed to the public, along with precise street addresses of both locations.

#3: Require IDA subsidies to conform to regional plans, including possible mergers

When companies shop for places to expand or relocate, they look at metro areas, not at individual cities or suburbs. They look at labor supply and skills, educational quality, infrastructure and other regional assets, as well as their own customer and supplier bases. Having multiple, overlapping IDAs in a single labor market is at best a disincentive for IDAs to focus on these truly relevant regional issues and at worst a recipe for wasteful zero-sum job poaching. Having a single IDA per metro area (instead of nine as Buffalo-Niagara has) would best promote the overall regional interest by removing structural disincentives for cooperation and coordination.

The Buffalo/Niagara region has not had a regional plan since 1974, but the new *Framework for Regional Growth* provides a basis for one. Moreover, the *Framework* notes that a regional economic development strategy is in process and that Erie and Niagara counties will “ensure Framework and emerging economic development strategies are fully integrated and mutually-supportive.” State law governing IDAs could require that they only subsidize projects whose locations are consistent with county or regional plans so that economic development supports, rather than undermines, land-use planning goals throughout the state.

Endnotes

¹ *Erie-Niagara Framework for Regional Growth*. Final Report. October 2006. Available at www.regionalframework.com. The *Framework* was prepared and supported by Erie and Niagara Counties to help guide the region's future development

² As of the 2000 US Census, Buffalo had 25 percent of the region's population. 2005 Census population estimates put Buffalo's share of the regional population at 24.4 percent. Buffalo contained 30 percent of Erie County's population in both 2000 and 2005.

These figures do not include tribal reservation lands, which have been excluded from all analyses in this paper because they are not subject to property taxes and thus are not eligible for IDA-granted property tax exemptions.

³ The number of properties with tax exemptions from the ORPS data is larger than the number of IDA property tax exempt projects reported in data the IDAs sent to the State Comptroller at least in part because the ORPS data tracks parcels rather than projects. We used OPRS data to map the locations of IDA deals rather than Comptroller data because the latter only has addresses for project owners and not project sites – there are many cases where the two addresses are different. The OPRS data did not have the name of the project and there are no common project identifiers between the data submitted to the comptroller and the data submitted to ORPS, so the two datasets could not be combined. See the policy recommendations section for more on this.

⁴ Under the 1988 federal WARN act, companies must notify states, localities and unions (where a workplace is unionized) in the event of a mass layoff or large facility closure. The law is intended to help dislocated worker programs better serve layoff victims. The WARN information reported was obtained from the New York State Department of Labor.

⁵ The National Vacant Properties Campaign. "BluePrint Buffalo." November, 2006, p.28. Available at http://www.vacantproperties.org/resources/BuffaloBrief_FINAL.pdf

⁶ NFTA timetables are available at <http://www.nfta.com/metro/routes.asp>.

