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Tecumseh, Lackawanna split difference on tax assessment

Complex agreement to avoid court battle

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A tax assessment battle between the City of Lackawanna and the owner of the vast former Bethlehem Steel property has resulted in the parties splitting the difference, ensuring continued tax revenues for the city over the next five years after the owner sought to avoid any liability.

Under a complex agreement reached between the city and Tecumseh Redevelopment Inc., filed with the court, the sprawling property along Route 5 will be assessed at \$15 million for the 2013-2014

tax year, just less than half of the city's original assessment of \$31 million that Tecumseh had challenged.

However, that means Tecumseh is entitled to a refund of \$700,000 from the extra taxes it already paid under the higher assessment. But because Erie County, Lackawanna and the school district couldn't give an immediate cash refund, they agreed instead to artificially lower the assessed value further to \$10.9 million over the next five years, through 2019, so that Tecumseh recoups the refund by paying less than it should.

The agreement, which came amid legal motions flying back and forth after the trial had already started, ends 12 months of litigation and avoids a fur-



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The site of the former Bethlehem Steel plant is 943 acres.

ther nasty war between the parties, who had already hired high-powered representation to help their cases.

Buffalo's two largest law firms – Hodgson Russ LLP and Phillips Lytle LLP – faced each other on opposite sides for Erie County and Tecumseh, respectively. Lackawanna hired attorney Peter Weinmann, who specializes in assessment challenges, while the Lackawanna School District brought in Amigone Sanchez Mattrey & Marshall LLP.

The 943-acre property, once the source of a major economic engine and employment base for Western New York, had at one time been assessed as high as \$120 million, when the property was vibrant.

But with the demise of Beth-

lehem Steel and successor operations such as ArcelorMittal, the property is now largely toxic and vacant, with 80 percent of the former plant having been demolished. Some portions are leased, including for wind farms.

After the prior assessment agreement expired, the city revised its valuation, causing Tecumseh to challenge it, asserting that the property should be assessed at zero.

What ensued was a series of legal motions, submission of thick property appraisals and piles of supporting documents by both sides, direct testimony and cross-examination of both appraisers and then two full days of settlement talks.

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