

City & Region

Erie County to hire attorneys to join lawsuits over tax assessments

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The lesson of Bethlehem Steel still reverberates in Erie County hall.

For years, the county sat out a court case as the owner of the mostly dormant steel plant fought to lower what Lackawanna said the property was worth.

The county paid the price. A settlement that spared Lackawanna and its schools from refunding back taxes left the county with a \$2.1 million bill – and the label “Rip Van Winkle” for a late attempt to come to the table.

Now, with county budget officials increasingly worried about money, the Bethlehem Steel case is a reminder of an outsized example of what can happen if the county isn’t at the table when towns and cities settle tax challenges over the value of a property.

That refund check – and others the county has paid in the four years since – helped shape a new county policy that will mean private attorneys hired by the county will intervene when a large commercial or industrial property owner sues a town over the value of its property and the amount of taxes it must pay.

“When an assessor and a Town Board in a particular town agrees to a settlement of a large commercial property, the way the system works is it affects every other town, every other taxpayer in Erie County,” said county Deputy Budget Director Timothy C. Callan.

But the county is trying to “pin the blame where it doesn’t belong,” said Peter Allen Weinmann, an attorney who specializes in assessment challenges and has represented a number of large property owners.

“What they’re reacting to, falsely, is a decline in property values in Erie County, and that’s not the fault of taxpayers,” Weinmann said. “Taxpayers are exercising their constitutional rights to have a fair tax assessment. The towns and the cities, because of our cases, are settling our assessment challenges with fair numbers.”

The county became alarmed by nearly 700 lawsuits filed against towns and cities this year.

So, facing a drop in property values across the county for the first time in 12 years, the county hired attorneys from three law firms to intervene in some of those property tax challenges.

County Executive Mark C. Poloncarz, who was county comptroller when the bill arrived for Bethlehem Steel, has directed his staff to wade through the hundreds of challenges filed each year and pick out the ones that have the most potential to impact the county.

“They’re not mom and pop; they’re not individuals,” said Jennifer C. Persico, an attorney with the law firm Mosey Persico who is consulting with the county on the tax challenges. “They’re all sorts of major national players who seem to file again and again every year in every taxing district that they’re in, regardless of whether or not it seems to be reasonable.”

It’s a financial calculation that the amount the county spends in legal fees will be less than the tax refunds and lost revenue that hit the county when it doesn’t get involved.

County officials are worried about what they describe as a trend in which towns, facing lawsuits by large property owners that could be expensive at trial, reach settlements that lower the town’s assessment of the value of the property but don’t require the town or schools to refund back taxes.

The county, in those deals, has had to write a check.

"In order to incentivize them to settle, the petitioner is waiving the right to go after the school district and the town for those refunds, and they only go after the county," said County Attorney Michael Siragusa. "The county is the only one responsible for the refund, because we're not at the table."

Last month, the county paid \$50,207 to refund back taxes for the Quaker Crossing Retail Center in Orchard Park after the town and school reached a deal to settle a lawsuit that challenged the town's assessment of the sprawling strip mall.

The town and school district agreed to freeze the property's value for four years, but they did not have to refund back taxes. The county, which did not intervene in the lawsuit, did.

Those types of refunds – often for smaller amounts – have been required in settlements for properties throughout the county, including gas stations, apartments and mobile-home parks.

So far this year, the county has paid \$1.7 million in refunds for tax assessment challenges, including an unusually large \$1.4 million check it cut after the Huntley power plant in the Town of Tonawanda successfully challenged its assessment.

Having a county attorney involved in the negotiations won't necessarily mean the county won't pay. The county did intervene in the Huntley lawsuit, and not every deal reached by a town or city excludes the municipalities from refunds.