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Settlement lowers plaza's assessment

*Quaker Crossing deal
saves \$120,000 in taxes*

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Gerald Buchheit is celebrating a rare victory these days against City Hall — or rather, County Hall, Town Hall and School District Headquarters.

The developer won his long legal battle to have the tax assessment reduced on his Quaker Crossing Retail Center in Orchard Park for the past four years, saving an estimated \$120,000 in county, town and school property taxes.

Under a settlement agreement, approved by State Supreme Court after the case had gone to trial, the assessed value of the large shopping plaza was reduced by roughly 5 percent each year for the last four years, and will be frozen for the next four.

"It is significant, because it does confirm that, in fact, the property was over-assessed for a number of years, so this is an acknowledgement that the property owners were overtaxed because of that," said attorney Peter Allen Weinmann, who represented Buchheit. Buchheit could not be reached for comment, nor could Orchard Park's attorney, Joel Kurtzhalts.

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Value of plaza put at \$36 million

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Specifically, the assessed value for 2008-2009 was reduced by 4.7 percent to \$18.6 million, the value for 2009-2010 fell 5.5 percent to \$18.444 million, the value for 2010-2011 was cut 4.9 percent to \$18.56 million, and the value for the past year was trimmed 4.7 percent to \$20.88 million.

Assessed values in Orchard Park are set at just about 60 percent of fair market value, so that puts the value of the 120-acre shopping plaza at \$31 million four years ago and \$36 million now.

Moreover, the agreement calls for the assessment to be locked at \$21.48 million for each of the next four years, down 2 percent from the previous assessed value. That's a fair market value of \$37 million.

As a result, the town can't change the valuation of the property for tax purposes for at least four years – even if the property is sold. "There's a real value to the freeze for four years," Weinmann said. "It's not just a reduction, but it's a freeze."

The court order from State Supreme Court Justice John

A. Michalek also directed the finance commissioner of Erie County and the treasurers of Orchard Park and the Orchard Park Central School District to apply the revised assessment, determine any overpayment and refund any money owed, with interest, within 45 days.

However, Buchheit waived his right to the refunds from the town and school district, in order to get the future freezer for four years. Weinmann is still awaiting the county's refund checks any day.

"What we did is rob from Peter to pay Paul," he said. "We waived retroactively and compensated by getting the freeze prospectively."

Built in 1995 and technically owned by Quaker Crossing Properties LLC, Quaker Crossing is one of the biggest retail properties in the Southtowns. The center is anchored by such big stores as Target, Kohl's, Dick's Sporting Goods and Marshalls, but also hosts The Children's Place, Petsmart, Orville's, and Famous Footwear, as well as a Regal Cinemas, Red Robin restaurant and Cold Stone Creamery.

Buchheit, who owns Accent Stripe in Orchard Park and the Freezer Queen property

on Buffalo's outer harbor, and once owned the Statler Hotel, had been fighting to reduce his tax burden on the property for more than four years, and was prepared to go to trial. "We settled on the courthouse steps," Weinmann said.

But after exchanging appraisals, both sides realized that there were risks to proceeding, with the town giving up more than it wanted, and Buchheit getting less than he wanted.

Weinmann said it's not uncommon to be able to get assessments reduced, whether for large properties or individual homes, adding that "the vast majority of times when we perform an analysis and we see an overassessment, we're able to prove it."

"You would think that a municipality would be extra careful, regardless of the size," he said.

"Whether the taxpayer is a large taxpayer or an individual, the tax should be fair. It really should be equitable. We're just looking, whether our client is a large property owner or a mom-and-pop, that they pay their fair share."

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