

Judge sides with plaza over town assessment

Southgate wins challenge to increase in West Seneca

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The owners of Southgate Plaza in West Seneca have won a court-ordered reduction in the shopping center's tax assessment, after accusing the town of selectively increasing its valuation based solely on a new gym taking over some former storefront space.

State Supreme Court Justice Henry J. Nowak ruled in favor of the challenge by Southgate Associates LLC earlier this month, saving the plaza's owners about \$41,000 in annual taxes on one of the largest properties in the town.

"It's something we vigorously litigated," said attorney Peter Allen Weinmann, who represented the ownership group, which includes the Campofelice family. "We are pleased with the result, although we feel there is more room for the assessment to go down further."

But the battle isn't over yet, as West Seneca "believes it is correct on the law," and plans to file an appeal Wednesday morning, Town Attorney John J. Fenz said. He noted that Nowak's ruling acknowledged that the town had shown that its assessments "are done equitably across the board."

"The judge's decision as it stands would unfairly benefit the plaintiff to the detriment of the town's other taxpayer," Fenz said in an emailed statement. "The Town will continue to vigorously defend this lawsuit."

Built on former farmland in 1954 by banker-turned-developer Carl J. Lambein, Southgate has 550,000 square feet of commercial space, with about 100 retail and office tenants, employing more than 1,500 people. It was acquired from the Lambein family in late 2012 for \$17 million. It's one of the most highly valued properties in the town, but not the biggest.

Southgate Associates had challenged the town's reassessment of the plaza for the 2016-17 tax year, calling it "unlawful" and "illegal" in its lawsuit.

The property at 3977 Seneca St., at Union Road, had been assessed at \$8,411,510 for each of the prior two years, but the town raised it to \$8,905,500 specifically because the owners replaced retail space with a gym,

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Refund of any overpayment is ordered within 45 days

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according to court documents that cited an "impact notice" from the town.

In West Seneca, properties are assessed at about 40 percent of fair market value. So that, in turn, resulted in an increase in fair market value to \$22.26 million, from \$20.03 million, based on the town's equalization rates at the time.

State law specifically bars an assessor from reassessing only properties that were recently sold or improved. Rather, reassessments must be based on a municipalitywide plan and applied consistently to all similar properties.

But in court documents, the plaza owners said the West Seneca assessor "did not uniformly consider the assessment of other similarly situated properties in the town." Additionally, the investor group said, "no such plan to do so existed" for the town.

Nowak agreed, ordering the assessment for the plaza to be reduced to \$8,411,510. Using the current equalization rate of 40 percent, that yields a fair market value of just over \$21.029 million.

As a result, the plaza's total town, county and school tax bill would fall to \$693,957, from \$734,580. Nowak also ordered that the town, Erie County and the West Seneca Central School District must refund any overpayment within 45 days.

Weinmann plans to file new paperwork with the town to keep that new assessment for the current year.

Meanwhile, Southgate Associates continues its larger legal battle with the town to reduce the assessment even further, bringing the fair market valuation down to \$15 million. The group had unsuccessfully sought a change from the town's Board of Assessment Review for all three years before also filing a special tax lawsuit.