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Philly Hiked Taxes With Unequal Assessment, Judge Told

By **Matt Fair**

Law360, Philadelphia (June 3, 2019, 5:11 PM EDT) -- The city of Philadelphia jacked up taxes on commercial property owners last year after improperly excluding residential properties from a reassessment, in violation of uniform taxation requirements in the Pennsylvania Constitution, a judge heard Monday during opening arguments in a bench trial.

Adam Koelsch, an attorney with Chamberlain Hrdlicka representing one of a group of commercial property owners challenging the city's reassessment in a string of consolidated lawsuits, told Judge Gene Cohen that the initiative left nearly 42,000 commercial property owners facing higher tax bills this year, while more than half a million residential owners were left unaffected.

"The city deliberately chose to single out commercial properties and bring them up to current market value without doing so to the vast majority of other properties in the city," Koelsch said.

The city is facing more than a dozen consolidated lawsuits over its announcement in March 2017 that it had raised some \$118 million in new revenue after reassessing nonresidential properties to ensure they were in line with actual market values for the purposes of taxation.

The reassessments were part of a broader program the city adopted in 2013, known as the Actual Value Initiative, aimed at assessing all properties for taxation at the amount they would sell for on the open market.

Both residential and nonresidential properties were reassessed following the adoption of AVI, but Koelsch said the reassessment conducted last year improperly focused exclusively on commercial properties, in violation of the Pennsylvania Constitution's uniformity clause.

The focus on reassessing commercial properties came despite what Koelsch said was the fact that residential properties in the city were collectively undervalued by about \$20.4 billion.

But Ben Field, an attorney with the city's law department, said during his own opening statement that data gathered by the Office of Property Assessment showed the underassessment of residential properties was less severe than that of commercial properties at the time the revaluation took place.

He said commercial properties had been underassessed by as much as 40 percent following the implementation of AVI, and the reassessment implemented for the past tax year was merely the city's attempt to correct the problem.

Moving forward, he said, the city plans on conducting residential and nonresidential reassessments simultaneously, but that getting the two classes of real estate to a point of parity in valuation following AVI took time.

"These properties were significantly nonuniform," Field said, "but getting to a point of uniformity across the entire city, although it required a step-by-step approaching, was always a goal of AVI."

Moreover, Field said, rolling back the reassessments would allow commercial property owners in the city to reap benefits that residential owners, whose properties have been more accurately assessed, were not able to realize.

"Having benefited from years of underassessment, a standard of perfection is what the plaintiffs are asking this court to impose, and that is not what the uniformity cause requires," he said.

The trial is expected to last about two weeks.

The property owners are represented by Stewart Weintraub and Adam Koelsch of Chamberlain Hrdlicka White Williams & Aughtry, Lawrence Aren, Carl Primavera and Amanda Dougherty of Klehr Harrison Harvey Branzburg LLP, Dean Weisgold of Dean E. Weisgold PC, Michael Weinstein of Obermayer Rebmann Maxwell & Hoppel LLP, Aris Karalis of Karalis PC, Judith Fellheimer and Gleb Epelbaum of Fellheimer & Eichen LLP, Jessica Prisealac and Alan Kessler of Duane Morris LLP, Peter Kelsen, Laurence Shtasel, Francis Crowley, Adam Laver and Melanie Carter of Blank Rome LLP, and Donald Reavey of Capozzi Adler PC.

The city is represented by Marcel S. Pratt, Eleanor N. Ewing, Dimitrios Mavroudis, Benjamin H. Field and Michael Pfautz of the City of Philadelphia Law Department.

The cases are consolidated under Duffield House Associates LP et al. v. City of Philadelphia et al., case number 170901536, before the Court of Common Pleas of Philadelphia County, Pennsylvania.

--Editing by Stephen Berg.