

# SUITS OVER FINES

- **Businesses challenge** penalties assessed by Nassau
- **Claim rights to proper notice, hearings were violated**

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Hundreds of Nassau businesses have filed lawsuits against the county in state court, contending hundreds of thousands of dollars in fines imposed on them by the county assessor are excessive and illegal.

The commercial property owners, represented by four different commercial tax law firms in four separate suits, are asking the court to immediately halt enforcement of the fines, due Feb. 10, and declare the county violated the owners' constitutional rights to proper notice and hearings before imposing the penalties.

State Supreme Court Justice Thomas Adams in Mineola on Friday heard arguments on whether to grant lawyers' requests for a temporary restraining order. His decision could come as early as today.

The lawsuits were filed in response to notices, signed by Nassau acting Assessor James Davis and dated Dec. 12, mailed to some 8,000 commercial property owners, imposing penal-

ties for not filing 2013 and 2014 income-and-expense reports.

Davis offered "amnesty" of 25 percent off the penalties, which are first assessed at .25 percent of a property's fair market value and then doubled to .5 percent if the owners still do not comply.

The county legislature in December 2013 hiked the penalties for failing to file income-and-expense statements as county officials searched for ways to close Nassau's budget gap and curb millions of dollars spent on commercial tax refunds. The statements are used to help establish commercial property values.

But lawyers note that County Executive Edward Mangano froze assessments in January 2011. New values are not expected to be issued until January 2019. By then, they say, the 2013 and 2014 statements will be outdated.

Some of the penalties, according to the tax attorneys, top \$300,000. If not paid, the fines become a lien, accrue 12 percent interest a year, and cloud title to the properties.



BARRY SLOAN

**State Supreme Court Justice Thomas Adams could rule on a restraining order today.**

"The county actions can only be described as reckless, absurd and desperate," said attorney Donald Leistman, representing 800 commercial property owners. "They've imposed penalties on people who never got the notices, people who complied, people whose properties are owner-occupied and therefore were exempt from filing. They gave no opportunity for a hearing or any other type of forum in which to say [to the assessor], 'You're wrong. Your calculations are off.'"

Lawyer Lauren Harris, representing about 100 commercial property owners, said, "They keep shaking people down for money. We're going to fight this and we're going to fight this hard."

In court papers, Harris said the county "failed to acknowledge the majority of its commercial taxpayers are owner-occupied and 'mom and pop' owners . . . Nassau County is putting these property owners out of business if they seek to impose these penalties."

Nassau is being represented in court by Mangano's former law firm, Rivkin Radler.

The Mangano administration did not respond to a request for comment.

The lawsuits are expected to be followed shortly by legal challenges to the county's new law requiring commercial property owners to pay into a new escrow fund that will finance tax refunds. Tax attorneys say tax bills for commercial property owners who challenged their assessments increased by 30 percent in January because of the new law. The increased taxes are due Feb. 10.

Nassau has yet to collect any income-and-expense penalties because Harris immediately challenged the county's authority to enact such fines. Her ar-

gument is now before the state appellate division.

The county legislature attempted to include \$36 million in penalty revenue in this year's budget but Nassau's financial control board refused to allow the money to be counted because of the continuing legal challenge.

The tax attorneys argue that the only point of the fines is to close Nassau's budget gap.

Leistman cited examples of what he called "grossly disproportional" penalties that were imposed improperly:

■ A small shopping center in Levittown filed its financial statements for 2013 and 2014 but received a penalty notice of \$255,214.

■ A nursing home and rehabilitation center in Long Beach filed its statements and has the FedEx delivery confirmation receipts but was still fined \$16,386.

■ The owner of a Woodbury office building was fined \$219,634 even though the company is exempt from the law.

The lawyers also argue that Davis does not have the authority to impose the penalties because he is only the acting assessor and that he does not have the qualifications required by law to be appointed assessor.