

BuffaloNews.com

Errors add to loss from Erie County tax breaks

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Published: February 7, 2010, 11:04 AM

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Updated: August 21, 2010, 9:33 AM

Over the past decade, Erie County tax officials have failed to seek more than \$700,000

from some of the companies already benefiting from tax breaks from the county Industrial

Development Agency, county auditors say.

Known mistakes have been corrected, and payments have been — or are being — made.

But the auditors say officials also forgave \$430,000 in interest and penalties, and jeopardized another \$140,000 by failing to promptly add a half-dozen properties to the tax

rolls as special tax deals expired.

"It's fair to say there is a mess going on with regard to this program," County Comptroller

Mark C. Poloncarz said in explaining the audit he will reveal Monday. "And it has been going

on for some time."

Then-Comptroller Nancy A. Naples had cited similar problems after 1998 and 2001 audits.

Like Naples, Poloncarz said tax collectors often bill companies too little, too much or

not at

all.

Problems largely stem from general uncertainty in county government about how to interpret

sometimes-complex payment formulas.

To promote job creation, the county Industrial Development Agency arranges "payments in

lieu of taxes" plans with companies willing to settle locally or expand. Such plans affected

285 properties in 2008 and saved companies a total \$1.5 million on their county taxes alone.

Those agreements can include complex terms and dense legalese that a county accountant then

translates into an annual invoice.

Auditors reported that one invoice in 10 is incorrect and said they found no sign that a

supervisor double-checks the computation.

Companies involved in some of the larger cases spotted the errors and worked to reconcile.

County officials then waived \$430,000 in interest and penalties because, the auditors said, the

county did not want to penalize others for its own failure to seek payment.

Auditors cited these examples:

The shipping company Roadway Express signed a PILOT in 1997 for property in West

Seneca. For 10 years, Erie County failed to send an invoice, the auditors said.

Payment

arrived only after new personnel at Roadway spotted the problem and contacted the county,

auditors said.

In July 2008, Joseph Maciejewski, the county's director of real property tax services,

told

Roadway that he would waive \$225,000 in interest and penalties if the company paid in full by

the following Sept. 1. The check for \$245,864 arrived on time.

For years, the county billed Uniland Development Co. for two properties related to

what was then the HealthNow building at 1901 Main St. Then, from 1999 until 2004, the invoices

stopped. Frederick A. Wolf, the county attorney at the time, accepted the unpaid \$337,668 and

forgave \$204,000 in penalties and interest.

Uniland spokeswoman Judi Griggs said Uniland pays up to \$9 million a year in taxes to local

municipalities on hundreds of properties.

"We rely on the taxing authorities to provide us with current and correct information," she

said. "As soon as we were notified of the discrepancy, we made full and prompt payment."

In 2008, New Era Cap Co. was billed \$13,167 for its site at 160 Delaware Ave. New Era

disputed the amount, saying the county had charged too little. The amount was then raised to

more than \$20,000, which the company promptly paid.

Poloncarz said no county staffer would have spotted the error if New Era had not pointed it

out.

The auditors examined all of the invoices generated during 2006 and 2007, when Joel

A. Giambra was county executive, and during 2008, when Chris Collins had taken over. Auditors

found an error rate of about 10 percent — when the county charged too much or too

little. In the aggregate, the county had billed \$70,000 too little and has recaptured \$45,000

of that so far.

Among those charged too much: the Orchard Park Medical Facility, at 3725 North Buffalo

Road, auditors said. The county returned \$13,616 for the years 2006 and 2007.

When PILOT agreements expire, the properties are to be taxed like any other. The auditors

said they found six properties that did not return to the rolls, jeopardizing more than

\$140,000 in tax revenue. That total involves just the county-government taxes, not those

imposed by school districts and local municipalities.

County auditors focused only on the way county employees collected on payment plans

arranged by the county IDA. Auditors said that examining how effectively municipalities and

school districts collect their taxes under PILOT plans would have been too unwieldy.

The Collins administration does not entirely accept Poloncarz's findings and disputes some

of his numbers — for instance, the assertion that as much as \$140,000 was jeopardized by

the failure to promptly return a half-dozen properties to the tax rolls when PILOT plans

expired.

Local assessors return properties to the rolls, county officials said, and until they do,

the county continues sending invoices. Under that practice, it had billed about \$100,000 of

the \$140,000 in potential revenue, they said.

"Invoicing PILOT agreements can be complicated," said Grant Loomis, Collins administration

spokesman. That, he added, "explains why the errors associated with Roadway Express, for

example, were never detected during two previous audits by the Office of Erie County comptroller."

While finding large billing problems, the 1998 and 2001 audits did not show the county

failing to bill Roadway under its 1997 agreement.

"The departments of Budget and Real Property would encourage Mr. Poloncarz to have his

accounting staff review all PILOT invoices before they are finalized," Loomis said.

Poloncarz said he would be willing to do that. But he has another suggestion.

Poloncarz and

his audit team found no rule that companies must receive an invoice, so the auditors believe

companies should make their PILOT payments regardless of whether they receive a bill.

He recommends that the county IDA, rather than county tax officials, compute and mail the

invoice. The county IDA sets up the PILOT plans, and its personnel understand them best, he

said.

Town IDAs serving Clarence, Lancaster and Amherst send out the invoices for their PILOT

plans, the auditors said. The Erie County IDA had done likewise, until, for some reason, a

change was made in the 1990s.

Through the IDA's public relations firm, Al Culliton, chief operating officer, said that

once he assesses the Poloncarz report, "we would be open to meeting with the county to

identify opportunities to improve the PILOT-billing process."

Comments

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