

JEFFREY M. PADWA
City Solicitor



ANGEL TAVERAS
Mayor

May 6, 2013

Anna Stetson
City Clerk's Office
Providence City Hall

Dear Ms. Stetson:

Enclosed please find the Annual Report of Civil Suits and Legal Proceedings in accordance with Providence Code of Ordinances sec. 2-98 APRIL 2013. Feel free to contact me if you have any questions.

Thank you,

A handwritten signature in black ink, appearing to be "C. Mullins", followed by a long horizontal line.

Christine P. Mullins
Assistant to the City Solicitor

IN CITY COUNCIL
MAY 16 2013

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.
A handwritten signature in black ink, appearing to be "Anna M. Stetson", followed by the word "CLERK".

JEFFREY M. PADWA
City Solicitor



ANGEL TAVERAS
Mayor

**ANNUAL REPORT OF CIVIL SUITS AND LEGAL PROCEEDINGS¹
IN ACCORDANCE WITH PROVIDENCE CODE OF ORDINANCES SEC. 2-98
APRIL 2013**

15 Park Row v. Tax Assessor - This is an appeal for relief from tax assessment for a commercial property. The potential exposure exceeds \$2.2 million for tax years 2009-2012. The matter currently is in settlement discussions.

101 Plain LLC v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for 10 commercial properties. The potential exposure exceeds \$300,000 for each tax year - 2010 and 2011. The matter is currently in discovery.

380 Westminster Street LLC v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for a piece of commercial property. The potential exposure averages an excess of \$398,000 for each tax year: 2008, 2009, 2010 and 2011. The matter is currently in discovery.

City of Providence v. Abbvie Inc. et. al. - This action is pending in the United States District Court for the District of Rhode Island and involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct by the prescription drug maker of Niaspan.

City of Providence v. Aeropostale, Inc. - This is a securities class action pending in the U.S. District Court, Southern District of New York in which the City seeks to recover approximately \$70,000 or more in losses suffered by its retirement fund due to the company's violations of securities regulations.

¹ The City is a defendant in many cases involving claims for personal injury, property damage, tax appeals, claims for contract violations, claims for violations of civil rights, and other claims. The City is a party in many other matters not included here, as they are less significant in terms of financial exposure or otherwise. As for matters involving property owners seeking relief from assessment, there are significant number of cases in which there is currently insufficient data to estimate the City's potential exposure. In the cases where there was enough data, the cases have been evaluated and, where appropriate, added to this list. It should also be noted that in virtually all tax appeal cases, taxpayer relief comes in the form of future tax credits for the taxpayer - forgone future City revenue - as opposed to a payment by the City.

City of Providence v. Thomas & Betts Corp. – This case involves a securities action alleging that the defendant violated securities regulations and is brought to obtain more complete disclosure of information pertaining to a proposed merger. The parties are currently in settlement discussions.

City of Providence v. Warner Chilcott Public Limited Company, et. al. - This action is pending in the United States District Court for the District of Rhode Island and involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct of the prescription drug maker of Loestrin 24.

AER Realty, LLC v. City and Providence Redevelopment Agency – This is an action wherein the plaintiff claims inverse condemnation and diminishment of value of property owned at One Fields Point. If the plaintiff were to prevail, the property is valued at \$1.3 million. This action is still in discovery.

Estate of Jameson Bazelaïs and Oidin Bazelaïs v. City — This lawsuit involves the death by drowning of one minor child and the injury of another at a City swimming pool. The City is vigorously defending the suit, but if proven, damages against the City could exceed \$4 million. The matter is currently in discovery.

Bliss Properties Inc. et al. v. Tax Assessor (tax year 2010) - This action constitutes an appeal for relief from tax assessment for 24 commercial properties. The potential exposure exceeds \$600,000.00 for tax year 2010. The matter is currently in discovery.

Bliss Properties Inc. et al. v. Tax Assessor (tax year 2011) - This action constitutes an appeal for relief from tax assessment for 8 commercial properties. The potential exposure exceeds \$400,000.00 for tax year 2011. The matter is currently in discovery.

In re: BP p.l.c. Securities Litigation – This action, pending in the U.S. District Court, District of Texas, Houston Division, involves a securities action brought to recover monies for the Providence Pension system. Currently, the case is in discovery.

Brown University v. Tax Assessor – This action constitutes an appeal for relief from tax assessment for 11 commercial properties. The potential exposure exceeds \$2 million for each tax year – 2010 and 2011. The matter is currently in settlement discussions. Typically, relief in this type of case comes in the form of future tax credits for the taxpayer.

Ceprano v. City — wrongful termination and libel suit commenced by the City's former Tax Collector. Summary judgment recently entered for the defendants as to most, but not all, of the counts of Plaintiff's complaint. If proven, damages against the City could exceed \$350,000.

Estate of Juana Contreras v. City — wrongful death action alleging gross negligence on the part of the city and two emergency medical technicians. Damages against the City could exceed \$750,000 if proven. Discovery is substantially complete, with the exception of expert depositions, which have not yet concluded. Trial may commence in the fall.

Extell Providence, LLC v. Tax Assessor – This action constitutes an appeal for relief from tax assessment for 1 commercial property. The potential exposure exceeds \$255,000.00 for tax year 2010. The matter is currently in settlement discussions.

Epoch SL III, Inc., Epoch SL I, Inc. v. Tax Assessor – This action constitutes an appeal for relief from tax assessment for 3 commercial properties. The potential exposure exceeds \$260,000.00 for tax year 2010. The matter is currently in discovery.

Epoch SL III, Inc., Epoch SL I, Inc. v. Tax Assessor – This action constitutes an appeal for relief from tax assessment for 3 commercial properties. The potential exposure exceeds \$255,000.00 for tax year 2011. The matter is currently in discovery.

Farrell v. Retirement Board - This is a state court action in which the former fire chief plaintiff is contesting both the Retirement Board's denial of an accidental disability retirement and the City's calculation of his pension allowance. The Court granted summary judgment for the City on the first issue, and, as for his pension allowance, the court found questions of fact and left it for trial. If plaintiff were to win all issues on appeal, he would win in the range of tens of thousands of dollars for pension allowance and the city could potentially have to pay more in health care costs as he would be entitled to health care for life without the cost cap of which his current plan provides.

Franchina v. City – This is a sexual harassment and discrimination action filed against the city by a female firefighter. It is pending in Federal District Court. Damages against the City could exceed \$250,000 if proven. The matter is in discovery, and trial likely will commence in the summer of 2014.

K.S.D. Trust, Grant Dulgarian Trustee v. Zoning Board of Review, City Plan Commission and Gilbane Development Corporation - This is an appeal to the Superior Court from the City's approval of Gilbane's Preliminary Plan for a major land development project. The project includes demolition of 8 older buildings in the Thayer Street area and construction of a 97-unit private apartment building at 257 Thayer Street. Filed in April 2013, the matter is on expedited appeal on the business calendar. The parties are submitting briefs; a decision is expected by June 1, 2013. Should the Trust prevail on appeal, the project will be unable to proceed in 2013.

J&W Associates v. City – This is an action challenging 11 property tax valuations. The potential exposure exceeds \$200,000.00 for tax years 2010-2012. The matter is currently in settlement discussions.

Laurelmead Cooperative v. Tax Assessor – This is an appeal for relief from tax assessment for a commercial property. The potential exposure exceeds \$1.65 million for tax years 2007-2012. The matter is currently in settlement discussions.

Machado v. City – wrongful death suit resulting from alleged police chase. A verdict against the city could be in excess of \$500,000. One expert still needs to be deposed. Trial is expected to commence in late 2013.

Mendonca v. City — action for alleged police brutality on October 20, 2009. Although the extent of the personal injury to the claimant is not yet clear, available information suggests that if liability is found, damages against the City could be in excess of \$250,000. The matter was filed in the Rhode Island Superior Court, but the City removed it to the United States District Court for the District of Rhode Island. Trial likely will commence in the fall of 2014.

Mentor v. Providence School Department – action for breach of contract, violation of civil rights and defamation arising from Mentor’s failure to receive a continuation of its contract to provide adult education services for 2002 academic year. The Court granted the City’s motion to dismiss the civil rights claim, determined that the breach of contract claim will proceed to trial, and has not yet decided whether to dismiss the defamation claim. The City is actively undertaking further efforts to obtain dismissal of the remaining claims. If the Plaintiff prevails on the contract claim alone, damages could exceed \$850,000.

National Association of Tobacco Outlets, Inc., et al. v. City – This case is pending in the 1st Circuit Court of Appeals after a federal judge ruled for the City in finding two ordinances constitutional; one which regulated various discounted-pricing schemes and the other which banned the sale of flavored tobacco products in the City.

Park Row Properties, Ltd. v. City — This case is pending in Providence Superior Court and involves maintenance and repairs to the Amtrak station plaza and parking garage. If the City were to be found liable, damages could exceed \$11 million.

PRI I, LP v. Tax Assessor - These are two actions for appeals for relief from tax assessment for 1 commercial property. The potential exposure exceeds \$700,000.00 for tax year 2010 and \$600,000.00 for tax year 2011. The matter is currently in discovery.

Providence Retired Police and Firefighters Association v. City (Medicare) – This case was recently settled and a Final Judgment was entered. It was a certified class action challenging an ordinance requiring Medicare eligible retired employees of the City to enroll in Medicare as a condition of receiving or continuing to receive health benefits. Individuals who have opted-out of the retiree class may choose to bring separate litigation.

Providence Retired Police and Firefighters Association v. City (Cost of Living Adjustment) – This case was recently settled and a Final Judgment was entered. It was a class action regarding the temporary suspension of Cost of Living Adjustments intended to save the city \$18 million in the present fiscal year. Individuals who have opted-out of the retiree class may choose to bring separate litigation.

Retirement Board v. Frank E. Corrente - The Superior Court confirmed the action by Retirement Board to award a reduced pension pursuant to the City’s honorable service ordinance. The Mayor has retained separate counsel and has intervened in the action, challenging the propriety of any award under the circumstances and the Board has also appealed the decision of the Mayor to intervene in this matter. The Rhode Island Supreme Court has

decided to have both appeals briefed concurrently - with full briefing rather than for a show cause hearing.

Venturini v. City of Providence *et al.* — an action arising out of a motor vehicle accident with a police officer. Plaintiff allegedly sustained significant injuries, though it is disputed how much of Plaintiff's present condition and how many of Plaintiff's surgeries were caused by the accident - and how much/many were the result of Plaintiff's previously existing significant medical history. After trial, judgment entered for Plaintiff in the amount of \$661,983.10, inclusive of interest. Post-trial motions are pending and the matter has been appealed to the Rhode Island Supreme Court.

School Housing Aid Litigation — action challenging the state's attempt to recoup an alleged overpayment in aid to the City which, if the City is found liable, could result in an approximately \$6,000,000 judgment against the City.

Yangambi v. City (School Board) — discrimination claim alleging failure to promote. If the City were to be found liable, damages could exceed \$350,000. Trial likely will commence later this year.

Young v. City of Providence — civil suit for damages relating to a rape allegedly committed by a City police officer. If the City were to be found liable, damages could exceed \$750,000. Discovery has begun but not yet concluded.