

JEFFREY DANA
City Solicitor



JORGE O. ELORZA
Mayor

April 30, 2015

The Honorable Luis A. Aponte
President, Providence City Council
Providence City Hall
25 Dorrance Street
Providence, Rhode Island 02903

Dear Council President Aponte:

Enclosed please find my annual report on civil suits and legal proceedings, which I submit pursuant to Sec. 2-98 of the Code of Ordinances.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jeffrey Dana", is written over a horizontal line.

Jeffrey Dana
City Solicitor

Enclosure

IN CITY COUNCIL
MAY 07 2015

READ
WHEREUPON IT IS ORDERED THAT
THE CHAIRMAN BE SEATED.
A handwritten signature in dark ink, appearing to read "Luis A. Aponte", is written over a horizontal line.
CLERK

JEFFREY DANA
City Solicitor



JORGE O. ELORZA
Mayor

**ANNUAL REPORT OF CIVIL SUITS AND LEGAL PROCEEDINGS
FROM THE CITY SOLICITOR TO THE CITY COUNCIL
IN ACCORDANCE WITH SEC. 2-98 OF THE PROVIDENCE CODE OF ORDINANCES
APRIL 2015**

Pursuant to Sec. 2-98 of the Code of Ordinances, the City Solicitor submits the following. Currently, there are 1,095 open civil cases in either state or federal court. Of these, 352 are cases for relief from tax assessment. In 32 cases, the City is the suing entity. In the rest of the matters, the City is a defendant in a (non-tax related) civil action. In calendar year 2014, there were 3,376 criminal cases in juvenile court, and 1,478 criminal cases in which an adult was the defendant. Below is a list of significant civil actions in which the City is either a plaintiff or a defendant.

101 Plain LLC v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for 10 commercial properties. A tentative settlement agreement has been reached.

380 Westminster Street LLC v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for a piece of commercial property. Settlement talks are underway.

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.

Alameda County Employees' Retirement Association v. BP p.l.c. (Securities Litigation) - This action, pending in the United States District Court for the District of Texas, Houston Division, involves a securities action brought to recover monies for the Providence Pension system.

Andrews v. City of Providence (Medicare) - This case concerns retired police and fire members who opted out of a settlement. The settlement ended litigation that 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. The individuals who have opted out of the retiree class have brought a separate action.

Atlantic-Eddy Realty v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for three (3) properties for tax years 2012 and 2013.

Estate of Jameson Bazelais and Oidin Bazelais v. City - This lawsuit involves the death by drowning of one minor child and the injury of another at a City swimming pool in 2009.

Calart Association v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for 42 commercial units at the Calart Towers located at 400 Reservoir Avenue for tax years 2010-2013. The matter currently is in settlement discussions.

Ceprano v. City - This is a 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. Outside counsel is James Marusak.

City of Providence v. BATS Global Markets, Inc. et al. - This action, pending in the United States District Court for the Southern District of New York, involves a class action complaint against various brokerage firms, securities exchanges, and high-speed traders of shares of stock between 2009 and the present based on their manipulation of stock prices and unfair gain arising out of high frequency trading technology. The City is attempting to recover damages and/or injunctive relief to halt future lost earnings to its pension fund.

City of Providence v. Buck Consultants, et.al. - This federal court case involves the city's allegations that our longtime actuary miscalculated pension savings.

City of Providence v. Celgene Corp. - This action is pending in the United States District Court for the District of New Jersey 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 Thalomid and Revlimid.

City of Providence v. James Dimon et al. - This action is pending in the Delaware Court of Chancery and involves allegations of breach of fiduciary duties for violations of anti-money laundering laws and systematic compliance failure.

City of Providence v. Petrobras et al. - This action, which was filed in December 2014 in the United States District Court for the Southern District of New York, involves allegations that the Brazilian oil company fraudulently schemed and artificially inflated the price of Petrobras securities in violation of the Exchange Act and the Securities Act.

City of Providence v. Takeda Pharmaceutical Company Limited et al. - This action is pending in the United States District Court for the Southern District of New York 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 Actos and Actosplus met.

In re Dole Food Co., Inc., Consolidated Shareholder Litigation. - This action is pending in the Delaware Court of Chancery, where the City has initiated a shareholder derivative suit for breach of fiduciary duties and non-disclosure related to a private buyout unfair to minority shareholders. The City is attempting to secure a better share price of the pension fund's holdings in this company and/or to recover related damages. A two-and-a-half-week trial took place in February/March, 2015, and the matter is currently in its post-trial phase.

Doughty v. City of Providence - This is a civil suit in which the Providence Firefighters Union alleges violations of the Fair Labor Standards Act concerning the calculation of overtime payments.

Extell Providence, LLC v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for 1 commercial property.

Epoch SL III, Inc., Epoch SL I, Inc. v. Tax Assessor - These actions are appeals for relief from tax assessment for 3 commercial properties for tax years 2010, 2011, and 2012.

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.

Franchina v. City - This is a sexual harassment and discrimination action filed against the city by a female firefighter. It is pending in the United States District Court for the District of Rhode Island.

Gambardelli v. City - This action stems from a motor vehicle accident between plaintiff and Paul Marandola, a former city employee who is now deceased. Plaintiff has sued alleging substantial bodily injury and permanent disability.

High Rock Westminster Street, LLC v. Tax Assessor - This action is an appeal for relief from tax assessment for "the Superman Building" for tax year 2013.

Johnson v. City - This action stems from a motor vehicle accident between plaintiff and a Department of Public Works employee. Plaintiff alleges substantial physical and psychological injury and permanent disability.

Lehigh Cement Co. v. Tax Assessor - This action is an appeal for relief from tax assessment for property in the ProvPort area.

In re Lidoderm Antitrust Litigation - This action is pending in the United States District Court for the Northern District of California 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 Lidoderm.

In re Loestrin 24 Fe Antitrust Litigation - 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.

Machado v. City - This is a wrongful death suit resulting from an alleged police chase.

Manzotti v. City - This is a civil suit in which the Fraternal Order of Police President, on behalf of all other officers, alleges violations of the Fair Labor Standards Act concerning the calculation of overtime payments.

McAllister Towing v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for tangible property (primarily a tugboat) for tax years 2012 and 2013.

Mendonca v. City - This is a civil suit for alleged police brutality on October 20, 2009. 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.

Mentor v. Providence School Department - This is an 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 the 2002 academic year. The Court granted the City's motion to dismiss the civil rights claim. The City filed a second motion for summary judgment on the remaining claims, and is waiting for the Court's decision.

Morse v. City - This is an action by an allegedly disabled firefighter challenging the Retirement Board's process of determining whether an individual is not entitled to a city pension. More specifically, the suit challenges the Board's interpretation that all three of the Board's independent medical examiners determine an individual's disability status. The matter is pending before the Rhode Island Supreme Court.

Narragansett Electric v. Tax Assessor - This action is an appeal for relief from tax assessment for 4 commercial real estate parcels for tax years 2010, 2012, and 2013.

In re Niaspan Antitrust Litigation - This action is pending in the United States District Court for the Eastern District of Pennsylvania 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.

OMNI Rhode Island, LLC v. Tax Assessor - This action is an appeal for relief from tax assessment for the Omni Hotel for tax year 2013.

Paolino Management v. Tax Assessor - This action constitutes an appeal for relief from tax assessment for 29 commercial properties for tax years 2010, 2011, and 2013.

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.

Quattrucci v. City of Providence (Cost of Living Adjustment) - This case concerns retired police and fire members who opted out of a settlement. The settlement ended litigation that was a certified class action challenging an ordinance that suspended a cost of living adjustment benefit. The individuals who have opted-out of the retiree class have brought a separate action to challenge the suspension of the COLA benefit.

Retirement Board v. Frank E. Corrente - The Superior Court confirmed the action by the 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. Attorney Raymond Marcaccio represents the Retirement Board, while Attorney R. Kelly Sheridan represents the Mayor.

Sauro v. City - This is an action filed in August 2014 by former city firefighter alleging violations of his First, Fourth, and Fourteenth Amendment constitutional rights as to his presently suspended accidental disability pension.

SEI/Aaron's v. Tax Assessor - This action constitutes an appeal for relief from tax assessment and an allegedly "illegal tax" for tangible taxes. It currently is pending on the RI Superior Court Kent County Business Calendar.

School Housing Aid Litigation - This is an action challenging the state's attempt to recoup an alleged overpayment in aid to the City. Jon Anderson is outside counsel.

In re Solodyn Antitrust Litigation - This action is pending in the United States District Court for the District of Massachusetts 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 Solodyn.

Terzian, Boghos v City of Providence and Laborers International of North America Local Union 1033 - Terzian has claimed wrongful suspension and failure to subsequently provide adequate due process hearing procedures which led to his termination. Terzian sued Local Union 1033 alleging failure to adequately represent him resulting in his suspension and termination. Terzian is seeking compensation for lost income, expenses, costs and reinstatement.

Westminster Street Hotel v. Tax Assessor - This action is an appeal for relief from tax assessment for commercial and tangible property.

Grady Scott Weston v. RCS Capital Corp. - This securities class action is pending in the United States District Court for the Southern District of New York and involves allegations that RCS violated the Exchange Act by making false and misleading statements at a time when it was seeking to purchase another business from American Realty, a related company with which RCS shares certain top executives. The City was appointed co-lead plaintiff, along with the Oklahoma Police Pension Fund and Retirement System.

Yangambi v. City (School Board) - This action involves claims of employment discrimination and retaliation for an alleged failure to promote a school department teacher to an administrator position. This matter went to trial in March 2014. A jury returned a verdict for the City on nine of ten claims. The jury found for the plaintiff on one claim of discrimination and assessed damages of \$190,710.35. Both parties have appealed this matter, which is pending before the Rhode Island Supreme Court.

Young v. City - This is a civil suit for damages relating to a rape allegedly committed by a City police officer.