

Businesses Seek \$35M Property Tax Exemption from Miami

Samantha Joseph, Daily Business Review

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Death and taxes might be certain, but businesses say they never expected the icy silence that greeted them during years spent seeking property tax exemptions from Miami.

A [class action lawsuit](#) by 67 businesses suggests they heard nothing—neither approvals nor denials—on [applications for ad valorem tax exemptions](#) under a [city enterprise zone](#) program promising discretionary tax incentives to investors in blighted neighborhoods. It claims the companies created jobs, bolstered real estate values and triggered economic development in now-thriving communities in Midtown, Brickell, Wynwood and the Design District after a 2001 referendum, but Miami reneged on its side of the deal.

"The city did nothing," said plaintiffs lawyer Nicole Rekant of Pardo Jackson Gainsburg in Miami. "They got what they wanted, but they never gave any of the money back. The city has enjoyed the benefits of these tax dollars."

The companies prevailed before a state [appellate court, which opened the door](#) to recoup millions from the city.

The decision by the Third District Court of Appeal upheld partial summary judgment on liability in favor of named plaintiff 346 N.W. 29th Street LLC, a company doing business as Museo Vault. It cleared the way for the damages portion of the case, which class counsel Stevan Pardo estimated could surpass \$30 million.

"The city failed to comply with its own ordinance in reviewing and determining the class members' applications for ad valorem tax exemptions," Third DCA Judge Kevin Emas wrote in a unanimous decision issued March 22 with Judges Barbara Lagoa and Vance Salter.

City attorneys argued the municipality did respond—not with official denials, but with annual Truth in Millage, or TRIM, notices that showed no reduction in proposed property taxes, suggesting rejection of the applications.

"There was no due-process violation here because the class members were aware they did not receive the tax exemption," Deputy City Attorney Barnaby L. Min said.

He argued the notices started the clock on a long-closed 60-day window to contest the assessment under a [Florida jurisdictional non-claim statute](#) designed to protect taxing authorities from tardy lawsuits that could jeopardize fiscal planning.

"With its decision, the Third District Court of Appeal has allowed a class of taxpayers to maintain a lawsuit based on denial of exemptions many years—some up to 10 years—in the past," Min said. "The policy behind the statute of non-claim is in place to protect the city from such dilatory threats to its budget."

He said Miami was weighing its "options for potential post-decision relief."

But plaintiffs say they made financial outlays based on promised incentives and have spent years waiting to recoup. One class member, GFL Miami LLC claimed it made \$2.5 million in improvements, including buildout of a 5,000-square-foot retail condo, according to an application submitted in 2008.

"This is an important ruling because it demonstrates that the city and government in general have to follow their own rules," Rekant said. "They're bound by their own laws, rules and regulations. That's really the takeaway."

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