

# Milwaukee property assessment ordinance ruled unconstitutional

*By Marie Rohde of the Journal Sentinel*

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In a case being watched closely by municipalities around the state, a judge ruled Tuesday that a state law that prevented Milwaukee property owners from getting full court review of disputed assessments is unconstitutional.

In March 2008, the Legislature passed a law allowing municipalities to adopt ordinances that would prevent property owners who challenge assessments from getting a full-blown court trial if they appealed boards of review decisions. Within weeks, Milwaukee and a few other communities adopted such ordinances.

The law allows property owners to seek a review of an assessment but does not permit a new trial on all the issues.

Metropolitan Associates, which owns 14 apartment buildings in Milwaukee, challenged the law, and Milwaukee County Circuit Judge Jean DiMotto made Tuesday's ruling.

DiMotto, in her ruling, said the law created "favored" and "disfavored" classes by allowing municipalities to enact ordinances that limit taxpayers' rights to the courts.

"Saving money is a laudable goal," DiMotto said. "But not when it's done in a way that deprives some citizens of the equal protection of the law."

Alan Marcuvitz, a lawyer for Metropolitan Associates, noted that the city had lobbied the Legislature for the change.

In 2001, the Wisconsin Supreme Court had ruled another law unconstitutional that had excluded city property owners from getting full trials in property disputes, but allowed them for property owners in every other municipality in the state.

Deputy City Attorney Vincent D. Moschella argued that while the new law does not allow for a full trial on assessment issues, it allows property owners protections. For example, if a property owner believed that an assessment was unfair and the board of review had refused to let the property owner present evidence, the court could order the board to consider the evidence.

Moschella argued that allowing property owners to have full trials before a judge on every assessment would be too costly.

Stanley Kritzik, a principal with Metropolitan Associates, said that if Moschella's argument were accepted, property owners would have to prepare every appeal before the board of review as if it were a trial. That would be unduly expensive, he said, because most disputes are resolved without litigation.

Moschella said the city would weigh its options before deciding whether to appeal DiMotto's decision.

"It's quite possible that we may ask the Legislature for changes," he said.