

## Legal opinion in Smithtown assessment flap

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In determining the tax assessment of a downtown property, Smithtown should consider only the condition that property is in on March 1 - even if that condition was created by an apparent defiance of the town building code, under a legal opinion issued by the state agency regulating tax assessments.

Smithtown's Town Assessor Gregory Hild asked for the opinion, issued Wednesday, after buildings on the former Nassau-Suffolk Lumber property in Smithtown owned by Salvatore DiCarlo were partially demolished the weekend of Feb. 28-March 1, while a stop-work order was in effect. DiCarlo owns South Fork Management and Maintenance, called North Fork Management in assessment records.

If Hild determines the Main Street lot should be considered vacant land, the tax burden would drop from \$57,761 to \$10,393. Newsday reported last week that town fines for defying the stop-work order would be a maximum of \$3,250.

"There is no provision in the Real Property Tax Law providing an exception ... because of a property owner's purportedly unauthorized acts," said the opinion written by Philip G. Hembdt, a senior attorney for the state Office of Real Property Services.

Hild said yesterday he plans to "take my time" in deciding which buildings were usable on March 1 and will work with inspectors and examine records in the building department. March 1 is the statewide date for considering the condition of property for assessment.

He has until May 1 to make the determination.

Councilwoman Patricia Biancaniello said she has asked both the state attorney general's office and Suffolk County district attorney's office to investigate the matter. "Those buildings were still intact 3 p.m. on Friday when they pulled their equipment out of there" after receiving the stop-work order, she said. "No one saw it on March 1."

The attorney general's office didn't return a call seeking comment. A spokesman for the district attorney's office declined to comment.

Yesterday, the state Labor Department found asbestos on the site, which changes the way remaining demolition must be done, according to building director John Bongino. "There are asbestos issues, but we're taking care of it," said DiCarlo's attorney, Vincent Trimarco Sr.