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# PPL Plaza owner sues Allentown over NIZ in federal court



Owners of PPL Plaza owe \$69 million on the landmark downtown building that is home to Talen Energy. If the company leaves, it could be hard pressed to find a tenant willing to match the company's exorbitant rent. (CHRIS KNIGHT / SPECIAL TO THE MORNING CALL)



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**A** LLENTOWN — Facing the potential loss of Talen Energy, its primary tenant, the owner of PPL Plaza sued Gov. **Tom Wolf**, Allentown, the Allentown Neighborhood Improvement Zone Development Authority and others Tuesday in federal court.

The lawsuit alleges the Neighborhood Improvement Zone has **unfairly put the Plaza's owner at a competitive disadvantage to developers** such as The Waterfront and City Center Investment Corp., which can tap the zone's tax incentives to offer below-market rents.

It says the NIZ legislation and the "arbitrary" way it has been implemented in Allentown violates the state and federal constitutions by depriving the owner of its civil rights and equal protection under the

law and amounting to an unlawful taking of property without just compensation.

"The statute passed by the General Assembly that created the Neighborhood Improvement Zone is unconstitutional and then we are saying that as applied in the real world by the defendants and in particular the Allentown Neighborhood Improvement Zone Development Authority, it also violates our constitutional rights," attorney Michael Coran said.

The lawsuit asks the court to void the NIZ, block its implementation and award unspecified monetary damages.

The owners, a limited partnership known as Plaza at 835 W. Hamilton St., bought the building and its parking garage from Liberty Property Trust in 2006 for \$92 million, before the NIZ existed. The building looked like an attractive investment because it included a long-term lease with PPL Energy Supply, the division of PPL Corp. that was spun off this year to create Talen Energy.

The lease, which runs through April 2018, charges a top-of-market base rate of \$27.20 per square foot — not including parking garage rent and building maintenance charges — made possible by the building's location in a tax-reducing Keystone Opportunity Zone.

That brings in \$671,630 per month, according to the suit.

But the KOZ expired in 2011, and the rent needed to continue covering the partnership's debt payments after 2018 is two to three times the below-market rents offered by NIZ developers such as City Center Investment Corp. and Alvin H. Butz Corp. down the street.

Talen has been shopping around for new offices, and PPL Plaza's owners have said their inability to access the benefits offered by the NIZ puts them at a disadvantage when competing with other downtown developers to keep or replace the company.

In the lawsuit, the owners say they expect Talen to leave the Plaza at the end of its lease.

The NIZ allows **developers such as The Waterfront and City Center** to apply most of their tenants' state and local non-property tax payments toward construction loan payments, allowing them to offer those tenants reduced rents. The same taxes can't be used to cover payments on an existing mortgage, like the one on PPL Plaza.

"As a result, developers wishing to build new office space can, already have and will continue to monopolize the available market for suitable tenants, including Talen," the lawsuit alleges.

The generous incentive has produced more than \$1 billion in proposed and completed construction projects downtown.

The lawsuit also accuses the city and ANIZDA of unfairly favoring the developers of The Waterfront, a

mixed-use office, retail and residential project planned for an area of the Neighborhood Improvement Zone along the Lehigh River, in the competition to land Talen.

It cites **two resolutions the authority passed in October** facilitating Talen's potential relocation to The Waterfront as examples.

Coran wouldn't say how much in damages the owners are asking for, but he said the NIZ legislation has essentially rendered PPL Plaza valueless.

"If we can't attract a tenant that is able to pay rent at a level that is high enough to pay our debt payments we will suffer foreclosure and have to abandon the property," he said.

The owners have a lot to lose. To date, the partnership has made \$53.1 million in principal and interest payments on the property, according to the lawsuit. The owners now face a balloon payment on the mortgage, which had a balance of \$69 million this summer, at the end of 2016.

ANIZDA chairman Sy Traub declined comment.

"I don't want to comment on litigation that is initially filed without review by counsel," he said.

Spokesmen for Gov. Tom Wolf and Allentown Mayor Ed Pawlowski did not return emails seeking comment.

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