AN ILLINOIS LAW FIRM

GETTING DOWN TO BUSINESS

HEYL ROYSTER
BUSINESS & COMMERCIAL LITIGATION NEWSLETTER

 Winter 2013

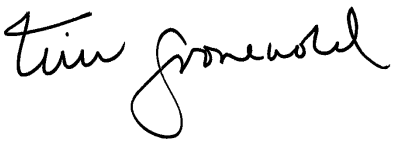
WELCOME LETTER

Dear Friends,

We have created this publication in order to provide local businesses with information about legal topics currently affecting businesses in our area. We have focused on business and corporate issues ranging from common litigation concerns, financial issues, employment policies, and compliance with state and federal laws. We know that your time is precious, so we thank you in advance for taking the time to read this newsletter and we sincerely hope you will find the information helpful in the operation of your business. As always, if there are any topics you would like to see in future editions, we welcome your thoughts and recommendations. If we can assist you with these or any other legal matters, please do not hesitate to contact us.

In this day and age, big companies, small companies, and all in between encounter a variety of issues while interacting with the local, state, and federal government. In this edition of the *Heyl Royster Business and Corporate Litigation Newsletter*, Patrick Poston writes about how to challenge commercial property tax assessments. Tim Bertschy writes about the importance of understanding and following the Prevailing Wage Act when dealing with construction, maintenance, repair, or demolition work funded by governmental bodies. John Heil and John Redlingshafer discuss how your private information may be at risk of becoming public when you deal with governmental bodies.

We would also like to invite you to a free educational seminar presented by our Business and Corporate Litigation Group on these and related issues that affect businesses. Please join us on Thursday, January 17, 2013 at 12:00 p.m. in our Peoria office. Lunch will be served. Again, if you have questions on these or any other topics, please feel free to contact us. We look forward to meeting with you on these important issues.



Lunch & Learn!

Business & Commercial Litigation Seminar

Thursday, January 17, 2013

- What is a record retention policy and why does my business need one?
- What are the consequences if my business does not have a record retention policy?
- What is spoliation and how might a record retention policy help to avoid a spoliation claim against my business?
- What does a record retention policy look like?
- What are the key provisions to include in a record retention policy?
- How must records be saved?
- My business has been served with a subpoena. What are our options for responding?

Each of the above questions is critical for any business to address. All businesses produce and obtain thousands of documents. With the increased use of computers and document management systems, these documents may be in electronic or paper form. It is crucial for a business to have a plan in place that informs its officers, directors, and employees how to handle the retention of these documents. Retention planning balances legal and business needs for documents against the costs and inefficiency of retaining unnecessary records. We are pleased to offer a complimentary seminar that will address the topic of document retention and will address each of the above questions.

Please join us for this seminar and lunch:

Thursday, January 17, 2013
12:00 to 1:00 p.m.

Heyl Royster Offices
Suite 600, Chase Building • 124 SW Adams • Peoria

Registration and Questions: Contact Rachel Ford
rford@heylroyster.com or 309.676.0400 Ext. 214

A BRIEF INTRODUCTION TO THE ILLINOIS PREVAILING WAGE ACT FOR PRIVATE CONTRACTORS

By: Tim Bertschy

Contractors and subcontractors doing business with governmental bodies in the State of Illinois must be aware of the provisions of the Illinois Prevailing Wage Act (the "Act") 820 ILCS 130. While the Act places significant responsibilities upon public bodies, it likewise places substantial responsibilities upon private contractors and subcontractors. Failure to comply with the Act threatens both civil and criminal liability, as well as the possibility of being barred from further governmental contracting. This article provides a brief review of the major provisions of the Act.

It is the policy of the State of Illinois "that a wage of no less than the general prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed, shall be paid to all laborers, workers and mechanics employed by or on behalf of any and all public bodies engaged in public works." 820 ILCS 130/1.

"Public works" means all fixed works constructed by any public body. The term includes all projects financed in whole or in part with bonds, grants, loans or other funds made available by or through the state or any of its political subdivisions. 820 ILCS 130/2. Significantly, this includes a fixed work constructed by a third party using any funds obtained through a grant or loan from a governmental unit. An example would be the construction by a little league of a backstop to which a township or village contributed money. "Construction" on public works includes construction and demolition work on any fixed work, as well as maintenance, repairs, assembly, or disassembly work performed on equipment involved with a covered activity. *Id.*

The term "general prevailing rate of wages" or its equivalent not only refers to hourly cash wages, but also fringe benefits for approved training and apprenticeship programs, health and welfare, insurance, vacations, and pensions paid in the locality in which the work is being performed to employees engaged in work of a similar character on public works.

Every June, each public body is to ascertain the prevailing rate of wages in the locality, to publish and publicly post those rates, and to keep them available for inspection in the main office of the public body. 820 ILCS 130/9. The public body is to file a certified copy of its rate determination (i.e., its prevailing wage ordinance) in the office of the Secretary of State and the Department of Labor. If a body fails to ascertain the prevailing rate of wages, the prevailing wage rate is the rate determined by the Illinois Department of Labor (IDOL) for the county in which the public body is located. For most governmental bodies, it is typical to reply upon the published wage rates of IDOL for the annual prevailing wage ordinance. These wage rates can be found on the IDOL website at http://www.state.il.us/agency/idol/.

When calling for bids for a contract, the public body is required to specify that the general prevailing rate of wages shall be paid for each craft or type of worker needed to execute the contract or to perform the work. All bid specifications are to list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of work or mechanic needed to execute the contract. 820 ILCS 130/4(c).

Upon awarding the contract, the public body is required to insert into the contract a stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers and mechanics performing the work under the contract. 820 ILCS 130/4(a-1). The public body is also to require that all contractor's and subcontractor's bonds include such provisions as will guarantee the faithful performance of the Prevailing Wage Act. 820 ILCS 130/4(c).

If there is no public bid, contract or project specification, the public body is to comply with the Act by providing the contractor with written notice on the purchase order (or on a separate document) indicating that not less than the prevailing wages as found by the public body or the Department of Labor or determined by the court on review shall be paid to all laborers, workers and mechanics performing work on the project. If proper written notice is not provided to the contractor by the public body, the public body may be ordered to pay any interest, penalties or fines that would have been owed by the contractor if proper written notice were provided. (It remains the obligation of the contractor to back pay to any laborer the prevailing wage rate.)

It is mandatory upon the contractor to insert into each subcontract and into the project specifications for each subcontract a written stipulation that not less than prevailing rate of wages shall be paid to all laborers, workers and mechanics performing work under the contract. Each lower tiered subcontractor has the same obligation with respect to its subcontractors. If subcontractor work is awarded without a contract or contract specification, a written document stating that the Act applies must be provided. 820 ILCS 130/4. Failure to give this notice subjects the contractor or subcontractor to pay interest, penalties or fines that would have been owed by the lower tier subcontractors if proper written notice had been provided.

If the prevailing wage rate is revised during the contract, the revised rate must be paid. Under a recent change in the law, the governmental body can place the responsibility to monitor changes in the prevailing wage rate upon the private

contractor and subcontractor by an explicit provision to that effect which directs the contractor or subcontractor to the IDOL website.

Although the Act is termed the Prevailing "Wage" Act, even proprietorships or partnerships that may not strictly pay a "wage" to employees are included. For workers under any business form, the Act requires that payment be made in an amount that equals or exceeds what would be paid at the prevailing wage. Thus, for example, a sole proprietor may be required to write him/herself a check each month in the amount of the prevailing wage due for the owner's time on the prevailing wage job.

The Prevailing Wage Act provides no dollar minimum threshold. Accordingly, the Act applies from the first dollar of expenditure on a public works project. Note that this means the Act applies to even small jobs involving fixed works, *e.g.,* bathroom repairs, wall patching, and the like.

Only laborers, workers and mechanics that are directly employed by contractors and subcontractors in actual construction work on the site of the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or from the site (but not including the transportation by the sellers and suppliers or the manufacture or processing of materials or equipment) are deemed to be employed upon public works. Thus, the contracting public body's employees are not covered by the Act. 820 ILCS 130/3. Laborers, workers and mechanics employed off-site by contractors and subcontractors are typically not covered.

Demolition work is covered by the Act, regardless of whether it accompanies repair or construction. Repair work to fixed structures used or owned by the governmental body are subject to the Act. Repair work to equipment being used in connection with fixed works may be covered by the Act if it is done at the worksite.

Mere delivery of materials to a government body's office or yard by a vendor does not fall within the Act. However, if there is any aspect of the delivery that involves installation or placement, then that portion of the work is under the Act.

Routine maintenance work that does not involve physical repairs to property, such as lawn mowing, weed spraying, and tree trimming, is typically not covered by the Act.

The contractor or construction manager is required for any project to: (1) post at a reasonably accessible spot on the project site the prevailing wage rates for the types of workers needed to execute the contract; (2) post such wage rates at the contractor's business location if the workers regularly visit this site; or (3) provide each worker on the project with written notice indicating the prevailing wage rates for the project.

While participating on public works, the contractor and each subcontractor is required to make and keep, for a period of not less than three years, records of all laborers, mechanics and other workers employed by them on the project. The records shall include each worker's name, address, telephone number, social security number, classification or classifications, the hourly wages paid in each pay period, the number of hours worked in each day, and the starting and ending times of each work day. 820 ILCS 130/5(a)

Additionally, the contractor and each subcontractor shall submit monthly to the public body a certified payroll. The certified payroll shall consist of a complete copy of the records the contractor and the subcontractor are required to keep under 820 ILCS 130/5(a), but may exclude the starting and ending times of each work day. The certified payroll is to be accompanied by a statement signed by the contractor or subcontractor which affirms that the records are true and accurate, that the hourly rate paid to each worker is not less than the generally prevailing rate required by the Act, and that the contractor or subcontractor is aware that filing a certified payroll known to be false is a Class A misdemeanor. A general contractor is not prohibited from relying upon the certification of a lower tier contractor, provided the general contractor does not knowingly rely upon a false certification. A contractor or a subcontractor who fails to submit a certified payroll or who knowingly files a false certified payroll is in violation of the Act and is guilty of a Class A misdemeanor.

The public body in charge of the project is to keep the records submitted by the contractor and each subcontractor for a period of not less than three years. The records are considered public records and are available to the public, except that an employee's address, telephone number and social security number shall not be made available under the Freedom of Information Act. Any reasonable submissions by a contractor or subcontractor that meet requirements of the Act are to be accepted by the public body.

The contractor and each subcontractor are required upon seven (7) business days notice, to make available for inspection the records required to be kept under the Act to the public body in charge of the project or to the Director of Labor.

A public official who willfully violates or fails to comply with the Act, or any contractor or subcontractor who fails to abide with their reporting requirements, or who refuses to allow access to those records at any reasonable hour to any person authorized to inspect the records, is guilty of a Class A misdemeanor.

A contract in violation of the Act is void as against public policy and a contractor is prohibited from recovering any damages for the voiding of the contract. 820 ILCS 130/11. The contractor is limited to a claim for amounts actually paid for labor and materials supplied to the public body. Any laborer, worker or mechanic who is paid less

than the Prevailing Wage Act has a right of action against his employer for the difference in wages, together with costs and reasonable attorney's fees. A contractor or subcontractor who violates the Act is liable to the Department of Labor for twenty percent (20%) of the underpayments plus two percent (2%) of the amount of such penalty to the underpaid laborer, worker or mechanic. Subsequent violations raise these sanctions to fifty percent (50%) and five percent (5%), respectively. *Id.* The Department of Labor can also maintain the right of action on behalf of underpaid individuals.

A contractor or subcontractor who violates the Act on two separate occasions within 5 years is in jeopardy of being placed on a "no-contract" list for 4 years. 820 ILCS 130/11a. A single willful violation, or failure to abide by the certified payroll requirements, may also result in a 4 year debarment.

It is prohibited to discharge, discipline, or in any way discriminate against any employee or any authorized representative of any employees by reason of the fact that the employee or representative has filed or instituted or has caused to be filed or instituted any proceeding under the Act or has testified in any such proceeding. Remedies for a violation include rehiring or reinstatement of the employee, compensating back pay for the employee, and a $5,000.00 penalty.

Helpful forms can be obtained at the IDOL website: http://www.state.il.us/agency/idol/.

In sum, the Prevailing Wage Act imposes significant responsibilities upon private contractors and subcontractors doing business with public bodies. Understanding the Act and its requirements is essential when doing business with governmental bodies.

Tim Bertschy is the chair of Heyl Royster's Business and Commercial Litigation practice group. He concentrates his practice in the areas of complex commercial litigation, employment, and local governmental law. He has litigated cases involving contractual breaches, business torts, partnership and corporate break-ups, stockholder disputes, ERISA, unfair competition, intellectual property, covenants not to compete, lender liability, fraud and misrepresentation, eminent domain (condemnation), computer and software problems, privacy, real estate disputes, zoning issues and business losses. Tim has represented clients in the business, banking, real estate, stock brokerage, accounting, legal, insurance, governmental, and religious fields of experience in complex litigation, including the defense of asbestos claims and other toxic torts. He has represented a large cross-section of clients in litigation throughout the federal, bankruptcy, and state courts of Illinois. Clients have included individuals, property owners, professionals, not-for-profit corporations and businesses, including Fortune 500 corporations.

The Freedom of Information Act: Implications for Contracting with the Government

by John Heil and John Redlingshafer

For business owners who already (or want to) contract with units of local, county, or state government, it is essential to have a working understanding of the Illinois Freedom of Information Act ("FOIA"). Section 1 of FOIA sets forth its purpose as follows:

> The General Assembly hereby declares that it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government. It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act. 5 ILCS 140/1.

But why is this important to a private company? Simply put, FOIA's broad scope means that it is not confined merely to those documents created by public bodies. To the contrary, it covers those documents *received by* public bodies, as well. This means that, in all likelihood, *every document* a company exchanges with a public body constitutes a "public record" subject to public disclosure under FOIA. Section 2 of FOIA defines a "public record" as follows:

> (c) "Public records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body. 5ILCS 140/2(c).

As a practical matter, it is safe to assume that all correspondence, proposals, plans, drawings, or any other materials your

company submits to a public entity (even in a bid package) will become a public record. Although FOIA contains an exemption prohibiting the disclosure of "private information" (such as Social Security numbers), most other exemptions (including the disclosure of a company's "trade secrets" or "confidential information") are not favored. So when your business submits materials to a government body or official (including emails, text messages, and other data), it creates public documents that may be produced if someone files a relevant FOIA request. This warrants caution when creating documents intended for public bodies and their employees.

A public entity served with a FOIA request must, unless granted an extension, produce the requested documentation in five business days or otherwise object to its disclosure. Public bodies must often scramble to assemble the requested documentation within this short time limit, and they have no obligation to warn you of the pending request. In most circumstances, you will not be aware that documentation prepared by your company was produced in accordance with FOIA. On occasion, however, a local public entity may be obligated to seek your assistance. Consistent with FOIA's mission to enforce the "fundamental obligation of government to operate openly and provide public records," 5 ILCS 140/1, public bodies may not skirt FOIA by allowing non-governmental entities to hold onto documents potentially subject to disclosure. If a public entity receives a valid FOIA request for public records in the hands of your company, you can expect a call from the entity's FOIA compliance officer requesting your assistance in fulfilling the request.

If your work for the government results in a dispute, settlement agreements are subject to FOIA requests. Section 2.20 of FOIA states that, subject to a few limitations, "[a]ll settlement agreements entered into by or on behalf of a public body are public records subject to inspection and copying by the public." 5 ILCS 140/2.20. Your company should enter settlement negotiations with the clear understanding that confidentiality is probably not an option. If your dispute is one of particular public interest, be prepared for the terms of your settlement to appear in the newspaper. It is always best for your business to comport itself with this in mind.

Finally, it is also important to realize that FOIA obligations often continue long after your job (or dispute) is done. Contracts or communications pertaining to a long-completed public project are subject to FOIA requests for many years. Public bodies in this state must maintain records in accordance with a number of stringent laws, including the Local Records Act and the State Records Act. If your company is engaged in business with the government, we advise you to maintain a specific records retention policy for all records associated with this branch of your business. This policy should be consistently applied and managed by your business's keeper of records.

Engaging in work for public entities can be professionally rewarding and profitable for you and your business. A clear understanding of the unique requirements associated with government-related work will help you steer clear of potential pitfalls, including unexpected FOIA implications. Please feel free to contact us for a more thorough assessment of you company's needs.

John Redlingshafer is an active member in the firm's government law, tort litigation, toxic tort and asbestos litigation, and business and commercial litigation practice groups. He has spent his entire legal career with Heyl Royster, beginning in 2004 in the Peoria office. He concentrates his expertise on government law, representing numerous townships, fire districts, road districts, and other governmental entities in a broad range of issues. His tort defense practice focuses generally on corporate clients, whether in general tort defense, landlord/tenant issues, or on the defense of asbestos and toxic tort claims arising from environmental and occupational exposures, including products and premises liability claims. John defends numerous clients in litigation throughout the state of Illinois, including equipment manufacturers, public utilities, premises owners, and contractors.

John Heil joined Heyl Royster in 2007 after serving for eleven years as a trial attorney with the Cook County State's Attorney's Office. During his years as a prosecutor, he prepared and argued hundreds of motions, and personally handled over one hundred bench trials and eighteen felony jury trials. As a member of the Civil Actions Bureau, John defended Cook County, Illinois, its elected officials and employees in state and federal court. John was part of the team charged with defending the elected State's Attorney and his Assistants in several high profile federal civil rights actions in the Northern District of Illinois.

A significant portion of John's practice at Heyl Royster involves complex civil rights litigation, including the defense of state law and federal Section 1983 actions leveled against law enforcement officers and other public officials. He is also heavily involved in commercial litigation and the defense of employment discrimination claims on behalf of area businesses. In addition, John defends long term care facilities and other entities in a number of different types of personal injury litigation.

CHALLENGING COMMERCIAL PROPERTY TAX ASSESSMENTS

By Patrick Poston

Property taxes are an unavoidable condition of owning commercial property in Illinois. These taxes are calculated in proportion to the value of the property and are based on property assessments made by local county assessment officers. But what happens when you disagree with the property value assessed by your county taxing authority and, consequently, the amount of taxes levied against your commercial property? The Illinois Property Tax Code creates an administrative process to contest property tax assessments. While this system is essentially the same across Illinois, the mechanics of the administrative process vary from county to county. As noted below, Cook County utilizes an administrative system for relief slightly different from the rest of Illinois.

This article is intended to provide a basic understanding of the process by which a taxpayer may contest commercial property tax assessments. Taxpayers wishing to dispute a tax assessment are highly encouraged to contact their local taxing authority and/or retain legal counsel to ensure compliance with local procedural rules and deadlines.

Review of Tax Assessments Outside of Cook County

Each county in Illinois has a Board of Review ("BOR") comprised of three-member panels vested with authority to review, increase, reduce, or otherwise adjust the assessment of any property. A BOR may adjust an assessment on its own initiative or upon the complaint of any taxpayer with an interest in the assessment. 35 ILCS 200/6-5, 35. It is worth noting that no assessment shall be increased by a BOR until the affected party has been notified and given an opportunity to be heard before the BOR. 35 ILCS 200/16-55.

To contest a property tax assessment, a taxpayer must file a written complaint in the form prescribed by a BOR. 35 ILCS 200/16-55. Every BOR is required to publish procedural rules that should be obtained by the taxpayer or the taxpayer's counsel prior to filing a complaint. 35 ILCS 200/9-5. Depending on the county, the complaint form and procedural rules may be available online. Complaints to contest an assessment for a tax year must be filed on or before 30 calendar days after the date of publication of the assessment. 35 ILCS 200/16-55.

After a complaint is filed by a taxpayer, a hearing will be held before the BOR. The degree of formality of these hearings varies from county to county. However, the hearings typically involve the taxpayer, taxpayer's counsel and local assessment officer(s) responsible for an assessment. Each party will be allowed to present evidence regarding the fair market value of the property for tax assessment purposes. After the hearing, a decision may be issued immediately or may follow via mail depending on the county.

Review of Tax Assessments in Cook County

Complaint to Cook County Assessor's Office

Cook County taxpayers wishing to challenge their commercial property tax assessment must first file a formal complaint with the Cook County Assessor's Office. 35 ILCS 200/9-85. Complaint forms and supporting affidavits may be obtained from the Cook County Assessor's Office and are available online. Pre-assessment complaints for a given year may be filed up to the date notices of assessed valuations are mailed for the township in which a property is located. After notices are mailed, taxpayers have 30 calendar days from the date of mailing to file a complaint. The filing periods for each township are published in a newspaper of general circulation. 35 ILCS 200/14-35. All relevant information and documentation must be filed no later than ten days after filing the complaint. The assessor may request additional information.

After the complaint is filed, the Cook County Assessor's Office generally issues a decision unilaterally without a formal hearing. A revised assessment or notice of "no change" will be mailed to the taxpayer.

Complaint to Cook County Board of Review

If a Cook County taxpayer is dissatisfied with the decision of the Cook County Assessor's Office, he or she may file a complaint with the Cook County BOR. Complaints must be filed on a township basis and filing deadlines are published by the township. This process is essentially the same as the process outlined above for all other Illinois counties, though the procedural rules for Cook County may differ. These rules are available online at the Cook County BOR website. Cook County taxpayers are highly encouraged to consult legal counsel prior to filing a complaint.

It is important to note that the Illinois Supreme Court has held that an individual property owner may appear before the Cook County BOR on his or her own behalf or by counsel. However, all other complainants, including corporations, must be represented by a licensed attorney. See *In re Yamaguchi*, 118 Ill.2d 417 (1987).

Review of BOR Decisions (All Counties)

If a taxpayer is dissatisfied with the BOR decision, he or she has two options: 1) file an appeal to the Property Tax

Appeal Board ("PTAB") in Springfield; or, 2) initiate tax objection proceedings in the circuit court for the county in which the property is situated. These options are mutually exclusive: the taxpayer may either file an appeal with the PTAB or file a tax objection complaint. A taxpayer may not do both. A PTAB proceeding is administrative in nature whereas a tax objection is a formal legal action. Thus they have different burdens of proof and procedural guidelines. There are advantages and disadvantages to both actions. A taxpayer should discuss the propriety of either option with his or her attorney and decide on the most appropriate course of action.

Appeal of BOR Decision to PTAB

Taxpayers may appeal BOR decisions to the PTAB by filing a complaint within 30 days of the date of written notice of a BOR decision. 35 ILCS 200/16-160. PTAB rules and forms can be found at the PTAB website. After a complaint is filed with the PTAB, a hearing will be held whereby all parties may present evidence regarding a property's fair market value. Hearings before the PTAB are generally more formal than hearings before a BOR. A party participating in a hearing before the PTAB is entitled to introduce evidence that is otherwise proper and admissible regardless of whether the evidence was previously introduced at a hearing before a BOR. 35 ILCS 200/16-180.

Decisions of the PTAB are administrative and subject to review by Illinois courts pursuant to the Illinois Administrative Review Law. 735 ILCS 5/3-101, *et al.* Accordingly, a taxpayer may initiate an action to review the PTAB decision in the Illinois circuit court for the county in which the property is situated. *Id*.; 35 ILCS 200/16-195. However, where a change in assessed valuation of $300,000 or more is sought at the PTAB, a review of the PTAB decision is afforded directly to the appellate court for the district in which the property is situated (and not the circuit court). 35 ILCS 200/16-195. A petition for review of a PTAB decision in an Illinois circuit court (disputed difference in assessed value of less than $300,000) must be filed within 35 days of the date of issue of the PTAB decision. 735 ILCS 5/3-103. A petition for review of a PTAB decision before the appellate court (disputed difference of assessed value of $300,000 or more) must be filed within 30 days of the date of the PTAB decision. Il. Sup. Ct. R. 303(a).

Tax Objection Proceedings

As an alternative to initiating an administrative proceeding with the PTAB to review a BOR decision, taxpayers may elect instead to initiate a legal proceeding by filing a tax objection complaint. Such complaints should be filed in the circuit court for the county in which the property is situated. 35 ILCS 200/23-15. A tax objection proceeding is generally not allowed where a taxpayer has not first contested an assessment before a BOR. 35 ILCS 200/23-10. In Cook County, a tax objection complaint must be filed no later than 165 days after the first penalty date for payment of the final installment of taxes for the year in question. In all other Illinois counties, a tax objection complaint must be filed no later than 75 days from the first penalty date. *Id*.

Conclusion

The process for challenging commercial property tax assessments in Illinois can be difficult to navigate without the assistance of legal counsel. Each county sets forth its own procedural rules and deadlines. Failure to adhere to these rules and deadlines can prevent a successful challenge of an over-assessment of commercial property. For non-individual owners of commercial property, representation by legal counsel is required to appear before a BOR or the PTAB. Illinois taxpayers wishing to contest a commercial property tax assessment are highly encouraged to consult with legal counsel prior to initiating an action.

Patrick Poston began his career with Heyl Royster in the summer of 2010 as a summer associate. Since joining Heyl Royster as an associate in the firm's Peoria office in 2011, Patrick has been actively engaged in all phases of litigation – from initial strategy and planning to final preparations for trial. He represents individuals and companies in a wide variety of practice areas, including: commercial transportation, commercial litigation, insurance coverage, tort, and contracts.

While attending law school, Patrick competed in the Wiley Rutledge Moot Court competition. He represented Washington University as a member of their regional teams for both the Representation in Mediation and Business Negotiation competitions. He received the Excellence in Alternative Dispute Resolution award at commencement. He also co-founded the Education Law and Policy Society.

Prior to law school, Patrick worked for two years as a teacher in St. Louis Public Schools as a part of Teach for America and also spent six months teaching English in Guatemala City, Guatemala.

Patrick serves as co-chair of the firm's 2012 pro bono work for Prairie State Legal Services.

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