

BENTON HARBOR

New Products disputes taxes owed by former Modern Plastics

By **LOUISE WREGÉ**
HP Staff Writer

ST. JOSEPH — Efforts to collect \$476,000 in unpaid property taxes from the former Modern Plastics Corp. in Benton Harbor have been put on hold.

Berrien County Treasurer Bret Witkowski said he either wants the property taxes paid by the current owner, New Prod-

ucts Corp. in Benton Harbor, or he wants to foreclose on the property so a new owner will pay them. The amount owed without penalties and interest is almost \$264,000, he said.

But he said he'd much rather have New Products pay the bill.

"The last thing we want to do is foreclose on it," Witkowski said.

New Products bought Mod-

ern Plastics, which was in bankruptcy, in March 2013. Modern Plastics closed in 2008 and is next to New Products.

Witkowski said he has already dispersed money to several local units of government. He said if no one pays the taxes, the units of government will have to repay the county.

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The former Modern Plastics Corp. building in Benton Harbor. The plant and property have been part of a bankruptcy protection case.

Don Campbell / HP staff



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At issue is \$119,206 for Benton Harbor and \$80,384 for Benton Harbor Area Schools. He said those units are cash-strapped and can't afford to repay the money.

Other entities that would have to repay the county are the State of Michigan Education Fund (\$24,285), Berrien County (\$22,967), Berrien RESA (\$9,657) and Lake Michigan College (\$7,216).

The foreclosure case to collect property taxes on two of the seven Modern Plastics parcels was scheduled to be heard Monday by Berrien County Trial Court Judge John Donahue.

But shortly before the hearing, the treasurer's office said it wanted to dismiss the case and would bring it back up in a case that involved all of the parcels.

Attorney Mark Demorest, who was representing New Products, objected. He said New Products spent a lot of time and money preparing for the case and was ready to move forward.

"The issues aren't going to go away," he said. "The treasurer is still pursuing foreclosure on these two parcels. ... It's just kicking the can down the road."

If the case is dismissed, he said the treasurer's office should reimburse New Products for the cost of attorney's fees and other costs.

Berrien County Corporate Counsel Donna Howard said she has never heard of a judge assessing costs and fees against the treasurer for giving more time to a property owner to pay taxes.

She said New Products either needs to pay the property taxes or allow the foreclosure to proceed.

"You can't have it both ways," she said.

Demorest said the case is not that simple. He said there are questions about how much tax is actually owed, and he was ready to present information on why.

After the hearing, he said in a emailed statement that there are errors in the prop-

erty tax descriptions of the seven parcels. He said some portions of the property are being taxed twice while other portions are not being taxed at all.

"New Products Corp., as the holder of the mortgage on the Modern Plastics property, wanted to get these legal issues resolved today, without further delay, so that New Products can know what taxes (if any) are owed and proceed with its plans to redevelop the property," he said.

Donahue dismissed the case, but he also ordered the treasurer's office to pay for costs incurred by New Products while preparing for the case. He gave Demorest 28 days to file the costs with the court.

Donahue said he hopes both parties can get together and work out an agreement.

"I'm not happy," he said. "This is really kicking many of these issues down the road."

After the hearing, Witkowski said he will work with New Products to either pay the taxes owed or to set up a payment plan.

He said he understands that New Products doesn't want to pay taxes on a property that has an inaccurate land description. But he said his office has nothing to do with land descriptions.

Cheryl Miller, CEO and president of New Products, said after the hearing that she just wants the mistakes corrected.

"I am a problem solver," she said. "I want to get the issues resolved. The deeds don't match the tax description. The tax description doesn't match the tax maps. How do you collect taxes twice on a property? That's not correct."

She said any future court case will have to deal with the same issues.

"They (Berrien County) must follow the process," she said. "They need to do things correctly and they're not above the law. These mistakes took place before New Products acquired the property."

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