

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2011-120

Council Meeting Date: 04-11-2011

Date Adopted: 04-11-2011

TITLE: RESOLUTION OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY APPROVING ESCROW AGREEMENT ON APPEAL IN NEW PROVIDENCE APARTMENTS CO., LLC, ET AL. V. MAYOR AND COUNCIL OF BOROUGH OF NEW PROVIDENCE, DOCKET NUMBER UNN-L-2732-09

Councilperson Cucco submitted the following resolution, which was duly seconded by Councilperson Gallucco.

WHEREAS, the case of New Providence Apartments Co., LLC, et al., v. Mayor and Council of Borough of New Providence, Docket No. UNN-L-2732-09, which challenged the validity of two ordinances that imposed a sewer fee on the plaintiffs and which was decided in favor of the Borough after trial, has been appealed by the plaintiffs in Docket No. A-002924-10; and

WHEREAS, the trial court has granted plaintiffs/appellants' motion for a stay pending appeal, subject to the posting of a bond in the amount of the sewer fees that would be due from the effective date of the ordinances; and

WHEREAS, the plaintiffs/appellants have proposed the posting of cash in an escrow account to be established in the Trust Account of Carella, Byrne, Cecchi, Olstein, Brody & Agnello, to be held pending the outcome of the appeal; and

WHEREAS, the Borough has agreed to such escrow and the appropriate modification of the court's stay order, provided the Borough may submit invoices to each apartment complex in the Borough, as defined in the ordinances, with the provision that the appellants will not have to pay the fee pending the outcome of the appeal because of the escrow:

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey, that the escrow agreement is hereby authorized and the sum of \$104,000 shall be deposited into the Trust Account of Carella, Byrne, Cecchi, Olstein, Brody & Agnello to be held pending

the outcome of the appeal, and that the Mayor, Clerk and Borough Attorney are hereby authorized to execute such documents and take such actions as are reasonably necessary to effectuate same.

APPROVED, this 11th day of April, 2011.

RECORD OF COUNCIL VOTE

	AYE	NAY	ABSENT	NOT VOTING
CUCCO	X			
GALLUCCIO	X			
GENNARO	X			
LESNEWICH	X			
MUÑOZ	X			
VYZAS			X	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 11th day of April, 2011

Wendi B. Barry, Borough Clerk