

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2013-341

Council Meeting Date: 10-28-2013

Date Adopted: 10-28-2013

TITLE: 98 Floral Avenue Inc. v. Borough of New Providence; Block 340, Lot 4; 98
Floral Avenue; Docket No. 005949-2013

Councilperson Madden submitted the following resolution, which was duly
seconded by Councilperson Kapner.

WHEREAS, 98 Floral Avenue, Inc. ("Taxpayer"), the owner of Block 340, Lot 4 on
the Borough of New Providence's Tax Assessment Maps, commonly known as 98 Floral
Avenue ("Property"), filed an appeal of its 2013 tax assessment in the Tax Court of New
Jersey, Docket No. 005949-2013.

WHEREAS, the Mayor and Borough Council of the Borough of New Providence met
and discussed the aforesaid tax appeal and the recommendations of its Borough Tax
Assessor and its Special Tax Counsel, DiFrancesco, Bateman, Coley, Yospin, Kunzman,
Davis, Lehrer & Flaum, P.C.

WHEREAS, Block 340, Lot 4 was assessed at \$1,697,200 for the year under
appeal; and

WHEREAS, an acceptable settlement of the aforesaid tax appeal has been
negotiated which reduces the total tax assessment levied upon Taxpayer's property
located at Block 340, Lot 4; and

WHEREAS, the 2013 total tax assessment, based upon said reduction, will be
\$1,426,000 instead of \$1,697,200 for Block 340, Lot 4; and

WHEREAS, the parties agree that the provisions of N.J.S.A. 54:51A-8 (Freeze Act)
shall apply to the assessment for Tax Years 2014 and 2015 and agree to waive any rights
they may have to file an appeal for Tax Years 2014 and 2015 except for the purpose of
implementing, enforcing and/or confirming the assessment of the Property as set forth in
the Stipulation of Settlement; and

WHEREAS, Taxpayer has agreed that any refunds due as a result of this settlement
shall be without interest provided that the refund is issued within sixty (60) days of the date
of entry of the Tax Court Judgment; and

WHEREAS, the aforesaid reduction has no general application to other properties within the Borough of New Providence as a result of the aforesaid specific fact situation; and

WHEREAS, the Mayor and Borough Council have reviewed a copy of the proposed Stipulation of Settlement, which is annexed hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of New Providence, County of Union, State of New Jersey, as follows:

1. The Borough of New Providence's Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$1,426,000 total tax assessment for the 2013 Tax Year for Block 340, Lot 4, which is most beneficial to the Borough of New Providence and advise the Special Tax Counsel of that allocation.
2. The Special Tax Counsel, Martin Allen, is hereby authorized to execute a Stipulation of Settlement relative to the tax appeal of 98 Floral Avenue, Inc. ("Taxpayer") Docket No. 005949-2013 which reduces the tax assessment on Block 340, Lot 4 from \$1,697,200 to a total tax assessment of \$1,426,000 for the 2013 Tax Year; which provides that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall apply to the assessment for Tax Years 2014 and 2015; which provides that the parties agree to waive any rights they may have to file an appeal for Tax Years 2014 and 2015 except for the purpose of implementing, enforcing and/or confirming the assessment of the Property as set forth in the Stipulation of Settlement; and which further provides that any refunds due as a result of this settlement shall be without interest provided that the refund is issued within sixty (60) days of the date of entry of the Tax Court Judgment.
3. The settlement outlined above shall be without prejudice to the Borough of New Providence's dealings with any other Borough taxpayers' request for tax assessment reductions.

APPROVED, this 28th day of October, 2013.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 28th day of October, 2013.

Wendi B. Barry, Borough Clerk

STEIN, McGUIRE, PANTAGES & GIGL, LLP
354 Eisenhower Parkway
P.O. Box 460
Livingston, New Jersey 07039-0460
(973) 992-1100 – (973) 535-3990 (FAX)
Attorneys for Plaintiff
Our File No. 652.14173

98 FLORAL AVENUE, INC.,

Plaintiff,

v.

BOROUGH OF NEW PROVIDENCE,

Defendant.

TAX COURT OF NEW JERSEY

DOCKET NO.: 005949-2013

Civil Action

STIPULATION OF SETTLEMENT

1. It is hereby stipulated and agreed that the assessment of the following property be adjusted and a Judgement entered as follows:

BLOCK 340

LOT 4

STREET: 98 Floral Avenue

<u>2013</u>	<u>Original</u> <u>Assessment</u>	<u>County Tax</u> <u>Board Judgment</u>	<u>Requested Tax</u> <u>Court Judgment</u>
Land:	367,600	Direct	308,850
Improvements:	<u>1,329,600</u>	Appeal	<u>1,117,150</u>
Total:	1,697,200		1,426,000

2. This agreement shall be binding upon any assignees, tenants and successors in interest with regard to the subject property.

3. The undersigned have made such examination of the value and proper assessment of the property and have obtained such appraisals, analysis and information with respect to the valuation and assessment of the property, as they deem necessary and appropriate for the purpose of enabling them to enter into the stipulation.

4. The assessor of the taxing district has been consulted by the attorney for the taxing district with respect to this settlement and has concurred.

5. Based upon the foregoing, the undersigned represent to the Court that the above settlement will result in an assessment at the fair assessable value of the property consistent with assessing practices generally applicable in the taxing district as required by law.

6. The Freeze Act is to apply for Tax Years 2014 and 2015. The parties agree that as of October 1, 2013, there has been no change in value or municipal wide revaluation or reassessment adopted for tax year 2014, and therefore agree that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall be applicable to and a final disposition of this case and the entire controversy and of any actions pending or hereafter instituted by the parties concerning the assessment on the Property referred to herein for said Freeze Act year(s). No Freeze Act year(s) shall be the basis for application of the Freeze Act for any subsequent year(s). Plaintiff, its successors and assigns, and Defendant agree to waive any rights they may have to file an appeal for the 2014 tax year except for the purpose of implementing, enforcing and/or confirming the assessment of the Property as set forth in the Stipulation of Settlement and Plaintiff agrees that it will affirmatively notify any successors and/or assigns of the terms hereof.

The parties acknowledge that the following provision may not yet be included in the Judgment to be entered by the Tax Court.

The parties further agree that if, as of October 1, 2014, there has been no change in value or municipal wide revaluation or reassessment adopted for tax year 2015, the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall be applicable to and a final disposition of this case and the entire controversy and of any actions pending or hereafter instituted by the parties concerning the assessment on the Property referred to herein for said Freeze Act year(s). No Freeze Act year(s) shall be the basis for application of the Freeze Act for any subsequent year(s). Plaintiff, its successors and assigns, and Defendant agree to waive any rights they may have to file an appeal for the 2015 tax year except for the purpose of implementing, enforcing and/or confirming the assessment of the Property as set forth in the Stipulation of Settlement and Plaintiff agrees that it will affirmatively notify any successors and/or assigns of the terms hereof.

Plaintiff acknowledges that Defendant has entered into this Stipulation of Settlement in part in consideration for these 2014 and 2015 tax year tax appeal waivers.

7. The parties specifically agree that any refunds due to plaintiff as a result of this Stipulation shall be without interest provided that payment is made within 60 days of the date of entry of Final Judgment in this action.

8. Any refunds due as a result of this settlement will be made payable to 98 Floral Avenue, Inc. c/o Stein, McGuire, Pantages & Gigl, LLP, 354 Eisenhower Parkway, P.O. Box 460, Livingston, New Jersey 07039-0460.

Dated: _____, 2013

STEIN, McGUIRE, PANTAGES & GIGL, LLP

By: _____
Raymond R. Siberine, Esq.
Attorney for Plaintiff

**DIFRANCESCO, BATEMAN, COLEY, YOSPIN,
KUNZMAN, DAVIS & LEHRER, P.C.**

By: _____
Sandra Belli, Esq.
Attorney for Defendant