

**RESOLUTION
OF THE
BOROUGH OF NEW PROVIDENCE**
Resolution No. 2014-059

Council Meeting Date: 01-13-2014

Date Adopted: 01-13-2014

TITLE: 29 South Street NJ, LLC v. Borough of New Providence; Block 171,
Lot 21; 29 South Street; Docket No. 009196-2013

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

WHEREAS, 29 South Street NJ, LLC (“Taxpayer”), the owner of Block 171, Lot 21 on the Borough of New Providence’s Tax Assessment Maps, commonly known as 29 South Street (“Property”), filed an appeal of its 2013 tax assessment in the Tax Court of New Jersey, Docket No. 009196-2013.

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 171, Lot 21 was assessed at \$975,000 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 171, Lot 21; and

WHEREAS, the 2013 total tax assessment, based upon said reduction, will be \$775,000 instead of \$975,000 for Block 171, Lot 21; and

WHEREAS, Taxpayer has agreed that any refunds due as a result of this settlement shall be without interest provided that the Stipulation of Settlement is filed with the Tax Court of New Jersey within 45 days from the date thereof and 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 \$775,000 total tax assessment for the 2013 Tax Year for Block 171, Lot 21, 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 29 South Street NJ, LLC ("Taxpayer") Docket No. 009196-2013 which reduces the tax assessment on Block 171, Lot 21 from \$975,000 to a total tax assessment of \$775,000 for the 2013 Tax Year; and which provides that any refunds due as a result of this settlement shall be without interest provided that the Stipulation of Settlement is filed with the Tax Court of New Jersey within 45 days from the date thereof and 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 13th day of January, 2014.

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 13th day of January, 2014.

Wendi B. Barry, Borough Clerk

B O R O U G H O F
NEW PROVIDENCE

SETTLED IN 1720

J. Brooke Hern, Mayor
Patricia Spsychala, Assessor
Nancy Pasquale, Assistant

TO: Doug Marvin, Administrator and Michael Gennaro, Councilman

FROM: Pat Spsychala, Assessor

DATE: January 7, 2014

RE: Tax Appeal Settlement Proposal for 29 South St. ■ Block 171 Lot 21

I am pleased to inform you that this matter is tentatively settled pending Mayor and Council approval. As such, please place the attached Resolution and Settlement of Stipulation for the January 13, 2014 meeting.

The subject property is a 9,061/sq. ft., three-story office building. The assessment is \$975,000; the assessment implies a market value of \$1,880,100 or \$207/sq. ft. For quite some time, most of the building has been vacant.

At the time of the appeal the property was exposed to the market for significantly lower than the implied market value. In December 2013, the subject property sold for \$1,150,000 or \$127/sq. ft.

This appeal is pending for 2013 only. The terms of the settlement are an assessed value of \$775,000 for 2013; the implied value being \$1,494,984 or \$165/sq. ft.

For 2014, the assessment will be further reduced to \$650,000 which takes into account the sale of the subject property and to minimize any exposure to the Borough for 2014. Based on the 2014 assessed value, the implied market value is \$1,253,858 or \$138/sq. ft.

The chart gives the breakdown of the original and post-tax year changes.

Breakdown of Tax Credit/Refund

Assessment:	<u>Original</u>	<u>Revised</u>	<u>Difference</u>
Municipal:	8,717	6,929	1,788
School:	24,580	19,538	5,042
County:	9,380	7,456	1,924
Library:	634	504	130
Total:	<u>43,311</u>	<u>34,427</u>	<u>8,884</u>

Please contact me with any questions.

/ps

**RESOLUTION
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BOROUGH OF NEW PROVIDENCE
UNION COUNTY, NEW JERSEY**

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A0780451

AMBER N. HEINZE, ESQ.
 The Irwin Law Firm, P.A.
 80 Main Street, Suite 410
 West Orange, New Jersey 07052
 (973) 325-0191

29 SOUTH STREET NJ, LLC & GRC :
 MGMT

TAX COURT OF NEW JERSEY

Docket No. 009196-13

Plaintiff,

-v-

NEW PROVIDENCE BOROUGH

Defendant

:
 : STIPULATION OF SETTLEMENT
 : (Without Affidavit)
 : Cheryl A. Ryan, Tax Court Admin.

:
 : First Calendar Date:
 :

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

Block: 171 Lot: 21
 Year: **2013**
 Street Address: 29 South Street

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 303,000	\$ 303,000	\$ 303,000
Improvements	\$ 672,000	\$ 672,000	\$ 472,000
TOTAL	\$ 975,000	\$ 975,000	\$ 775,000

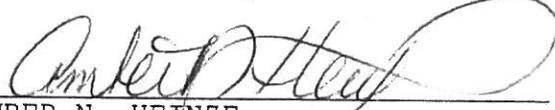
2. The undersigned have made such examination of the value and proper assessment of the property(ies) and have obtained such appraisals, analysis and information with respect to the valuation and assessment of the property(ies) as they deem necessary and appropriate for the purpose of enabling them to enter into the Stipulation. The assessor of the taxing district has been consulted by the attorney for the taxing district with respect to this settlement and has concurred.

3. 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(ies) consistent with assessing practices generally applicable in the taxing district as required by law.

4. Pre-judgment interest is waived on the condition that this Stipulation of Settlement is signed by counsel for the municipal defendant and forwarded to the Tax Court of New Jersey within 45 days hereof and provided the refund is received within 60 days from the date of the entry of judgment.

5. All tax over-payments and interest shall be by refund check made jointly payable to "**The Irwin Law Firm Attorney Trust Account**" without any offsets or deductions whatsoever for any unpaid taxes or municipal charges for tax years subsequent to the tax years covered by this Stipulation.

6. The provisions of Paragraphs 4 and 5 shall survive Judgment even if not included in the Judgment issued by the Tax Court.



AMBER N. HEINZE
Attorney for Plaintiff

Dated: December 20, 2013

COPY

MARTIN ALLEN
Attorney for Defendant

Dated: