

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2014-331

Council Meeting Date: 09-22-2014

Date Adopted: 09-22-2014

TITLE: RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE
GUARANTEES IN THE AMOUNT OF \$12,140.93 TO UNION AVENUE
DEVELOPMENT, LLC

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

WHEREAS, Union Avenue Development, LLC came before the Planning Board
and received approval in 2007; and

WHEREAS, the Borough Engineer of the Borough of New Providence has
reported that Union Avenue Development, LLC, owner of Block 192, Lot 27, posted a a
cash guarantee, in the amount of \$12,140.93, as required by approving resolution
2007-11; and

WHEREAS, the Borough Engineer advises that work has been completed to the
satisfaction of the Engineering Department and recommends the return of the posted
Performance Guarantee and interest; and

WHEREAS, in accordance with the Borough Engineering memo dated
September 17, 2014, a two year Maintenance Bond is not required as the cash
guarantee had been retained for the two year period since the issuance of the last
certificate of occupancy in May 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the
Borough of New Providence, in the County of Union and State of New Jersey, that they
do hereby authorize the release of the cash Performance Guarantee along with
interest, in the amount of \$12,140.93 to Union Avenue Development, LLC..

BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of New
Providence, in the County of Union and State of New Jersey, that the cash
Performance Guarantees in the amount of \$12,140.93 be returned to said applicant.

APPROVED, this 22nd day of September, 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 22nd day of September, 2014.

Wendi B. Barry, Borough Clerk

B O R O U G H O F
NEW PROVIDENCE

SETTLED IN 1720

J. Brooke Hern, Mayor

Andrew R. Hipolit, Borough Engineer

Margaret Koontz, Administrative Assistant

September 17, 2014

VIA E-MAIL

Doug Marvin, Borough Administrator
Borough of New Providence
Municipal Center
360 Elkwood Avenue
New Providence, New Jersey 07974

Re: Union Ave. Development
Recommendation to Release Performance Guarantees
Block 192, Lot 27
Union Avenue
Our File No. NPP-150

Dear Mr. Marvin:

The Applicant for the above-referenced project has requested final acceptance of their development and the release of the associated performance guarantees. As required, the Applicant has submitted the following information:

- As-built Plan entitled "As- Built Survey, Tax Lot 27, Block 192, Borough of New Providence, Union County, New Jersey" prepared by James P. Deady Surveyor, LLC, dated June 28, 2012 and last revised March 26, 2013.

We take no exception to the As-built Plan. We have provided, as needed, inspection services throughout the construction and find the site in compliance with the approved plans. Based on this, we recommend the release of the Performance Bond, which was submitted in the form of cash, in the amount of \$12,125.50 plus any interest (if applicable).

There had been an issue with the Developer's subcontractor where a levy was served upon the Borough. According to correspondence, dated June 26, 2014, from Paul R. Rizzo, Borough Attorney, it appears that issue has been resolved. However, this recommendation of release is predicated on Mr. Rizzo's review and concurrence in this matter.

There is a requirement for a Maintenance Bond posting, however the project was deemed complete and the last certificate of occupancy was issued in May 2012, therefore, the Performance Guarantee has been acting as the Maintenance Bond requirement. Finally, all

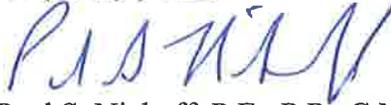
To: Doug Marvin
Re: Our File No. NPZ-257

September 17, 2014
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escrow monies shall be held until all invoices from professionals are verified by the Borough as being paid.

Thank you for your kind attention regarding this matter. Please do not hesitate to contact me should you have any questions.

Very truly yours,



Paul S. Niehoff, P.E., P.P., C.M.E.
Senior Associate

PSN/cb

cc: Planning Board (via Secretary)
Margaret Koontz, Secretary to the Board
Keith Lynch, Building Official (via e-mail)
Paul Rizzo, Esq., Borough Attorney (via e-mail)

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Paul R. Rizzo
Partner

Ext. 154
prizzo@newjerseylaw.net

June 26, 2014

William T. Anastasio, Esq.
338 Main Street
Chatham, NJ 07928

Re: **Union Avenue Development, LLC**



Dear Mr. Anastasio:

I am in receipt of a June 14, 2014 letter from Paul A. Alongi, Esq. which included an Order entered June 20, 2014 by the Hon. Mark P. Ciarrocca, which vacated and dissolved the Union County Sheriff's Office levy upon monies due the defendants from the Borough of New Providence. I note that I inquired of you on May 29, 2014, and have not heard from you.

Based upon the information provided, I am advising the Borough that any and all monies due Union Avenue Development, LLC may be paid to them without regard to the levy.

Very truly yours,

Paul R. Rizzo

PRR/jg
Enclosures

cc: Paul A. Alongi, Esq.
Wendi Barry, Borough Clerk (*Via Email*)