

RESOLUTION
OF THE
BOROUGH OF NEW PROVIDENCE
Resolution No. 2015-155

Council Meeting Date: 04-13-2015

Date Adopted: 04-13-2015

TITLE: BOC Group Inc. v. Borough of New Providence: Block 370, Lot 1; 70 Ryder Way, Docket Nos. 008191-2011; 003734-2012; 00880-2013; 014266-2014 AND BOC Group Inc. v. Borough of New Providence: Block 320, Lot 18.01; 575 Mountain Avenue, Docket Nos. 008193-2011; 003732-2012; 000889-2013; 014265-2014

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

WHEREAS, BOC Group Inc. the record owner of the parcel at 70 Ryder Way identified on the Borough of New Providence Tax Assessment Maps as Block 370, Lot 1 appealed the property tax assessments for the years 2011, 2012; 2013 and 2014; and

WHEREAS, the Mayor and Council of the Borough of New Providence County of Union met and discussed the aforesaid Tax Appeals and the recommendations of its Tax Assessor; and

WHEREAS, Block 370, Lot 1 was assessed at \$6,686,000 for the years 2010, 2011, 2012; 2013 and 2014; and

WHEREAS, a settlement beneficial to the Borough of New Providence was negotiated to reduce the subject property's assessments as follows:

The 2011 assessment of \$6,868,000 will be affirmed; and

The 2012 assessment of \$6,868,000 will be affirmed; and

The 2013 assessment will be reduced from \$6,686,000 to \$5,000,000 by \$1,686,000; and

The 2014 assessment will be reduced from \$6,686,000 to \$4,000,000 by \$2,686,000; and

The 2015 assessment has been reduced on the Tax Roll to \$3,800,000; and

WHEREAS, BOC Group Inc. the former record owner of the parcel at 575 Mountain Avenue identified on the Borough of New Providence Tax Assessment Maps

as Block 320, Lot 18.01 appealed the property tax assessments for the years 2011, 2012; 2013 and 2014; and

WHEREAS, the Mayor and Council of the Borough of New Providence County of Union met and discussed the aforesaid Tax Appeals and the recommendations of its Tax Assessor; and

WHEREAS, Block 320 Lot 18 was assessed at \$13,265,400 for the years 2010, 2012, and 2013; and

WHEREAS, Block 320, Lot 18.01 was assessed at \$13,265,400 for the year 2014; and

WHEREAS, a settlement beneficial to the Borough of New Providence was negotiated to affirm the subject property's assessments resulting in no assessment changes as follows:

The 2011 assessment of \$13,265,400 will be affirmed; and

The 2012 assessment of \$13,265,400 will be affirmed; and

The 2013 assessment of \$13,265,400 will be affirmed; and

The 2014 assessment of \$13,265,400 will be affirmed; and

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

WHEREAS, the Borough's Tax Assessor is hereby directed to allocate the reduced assessments between land and building as necessary; and

WHEREAS, the taxpayer has waived the right to any prejudgment interest provided the refund is issued within 60 days of the date of entry of the Tax Court Judgment;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey, that Special Counsel is hereby authorized to execute the attached Stipulation of Settlement; and

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey that the Tax Collector of the Borough of New Providence shall furnish any required refund due to the taxpayer pursuant to the terms of said settlement.

APPROVED, this 13th day of April, 2015.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
MORGAN			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 April, 2015.

Wendi B. Barry, Borough Clerk

ZIPP & TANNENBAUM, L.L.C.

ATTORNEYS AT LAW

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JAMESBURG, NEW JERSEY 08831

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CHARLES APPLEBAUM
OF COUNSEL
capplebaum@zipplaw.com

January 9, 2015

William T. Rogers, Esq.
Skoloff & Wolfe, P.C.
293 Eisenhower Parkway
Livingston, New Jersey 07039

**Re: BOC Group, Inc. v. New Providence Borough
Block 320, Lot 18.01 (f/k/a Lot 18); 575 Mountain Avenue
Docket Nos.: 008193-2011, 003732-2012, 000889-2013, 014265-2014**

**BOC Group, Inc. v. New Providence Borough
Block 370, Lot 1; 70 Ryder Way
Docket Nos.: 008191-2011, 003734-2012, 000880-2013, 014266-2014**

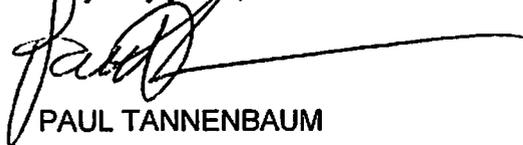
Dear Mr. Rogers:

In accordance with the settlement reached between the parties, I have prepared and enclose herewith an original plus two (2) copies of a Stipulation of Settlement in the above-referenced matters.

If same meets with your approval, kindly execute and forward to the Tax Court for the issuance of judgments. I would appreciate receiving a fully executed copy of the Stipulation for my file.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



PAUL TANNENBAUM

PT/mok
Enclosure

cc: Honorable Patrick DeAlmeida, P.J.T.C. (w/o encl.)

Block: 370
Lot: 1
Street Address: 70 Ryder Way
Year: 2013

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 3,935,300	Direct	\$ 3,935,300
Impvts	<u>\$ 2,750,700</u>	Appeal	<u>\$ 1,064,700</u>
Total	\$ 6,686,000		\$ 5,000,000

Block: 370
Lot: 1
Street Address: 70 Ryder Way
Year: 2014

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 3,935,300	Direct	\$ 3,935,300
Impvts	<u>\$ 2,750,700</u>	Appeal	<u>\$ 64,700</u>
Total	\$ 6,686,000		\$ 4,000,000

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 represents 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.

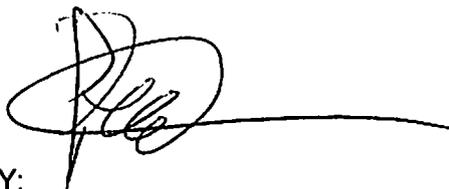
4. Statutory interest, pursuant to N.J.S.A. 54:3-27.2, having been waived by taxpayer, shall not be paid provided the tax refund is paid within sixty (60) days of the date of entry of the Tax Court judgment.

5. The parties agree that the property's 2015 total assessment shall be \$3,800,000 and further agree that either party shall have the right to file a tax appeal for the 2015 tax year to obtain a judgment to implement, enforce and/or confirm the \$3,800,000 assessment agreed upon herein. This agreement shall be binding upon any assignees, tenants and successors-in-interest with regard to the subject property. The parties understand that the provisions set forth in this Paragraph 5 regarding the 2015 assessment shall not be reflected in the Tax Court Judgment.

6. Please be advised that the settlement of BOC Group, Inc. v. New Providence Borough under Docket Nos.: 008193-2011, 003732-2012, 000889-2013 and 014265-2014 is contingent upon the withdrawal of all pending appeals on the 575 Mountain Avenue (Block 320, Lot 18.01 f/k/a 18) property.

7. All refunds as a result of the settlement set forth herein are to be made payable to the taxpayer and forwarded to Zipp & Tannenbaum, L.L.C., 166 Gatzmer Avenue, Jamesburg, New Jersey 08831 within sixty (60) days of the date of entry of the Judgment pursuant to N.J.S.A. 54:3-27.2.

ZIPP & TANNENBAUM, L.L.C.



Dated: January 9, 2015

BY:

PETER J. ZIPP, ESQ.
Attorney for Plaintiff

SKOLOFF & WOLFE, P.C.

Dated: January _____, 2015

BY:

WILLIAM T. ROGERS, ESQ.
Attorney for Defendant

SKOLOFF & WOLFE, P.C.
A PROFESSIONAL CORPORATION
WILLIAM T. ROGERS, III, ESQ. ID#042821996
293 EISENHOWER PARKWAY
LIVINGSTON, N.J. 07039
(973) 992-0900
ATTORNEYS FOR DEFENDANT

Plaintiff,

BOC GROUP, INC.,

vs.

Defendant,

NEW PROVIDENCE BOROUGH.

TAX COURT OF NEW JERSEY

DOCKET NOS.: 008193-2011;
003732-2012; 000889-2013;
BLOCK 320 LOT 18
DOCKET NO 014265-2014
BLOCK 320 LOT 18.01
575 MOUNTAIN AVENUE
CIVIL ACTION

STIPULATION OF SETTLEMENT
TAX COURT OF NEW JERSEY

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

BLOCK: 320
LOT: 18
STREET ADDRESS: 575 Mountain Avenue
YEAR: 2011

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land:	\$4,403,700	DIRECT	\$4,403,700
Impvts.:	\$8,861,700	APPEAL	\$8,861,700
Total:	\$13,265,400		\$13,265,400

BLOCK: 320
LOT: 18
STREET ADDRESS: 575 Mountain Avenue
YEAR: 2012

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land:	\$4,403,700	DIRECT	\$4,403,700
Impvts.:	\$8,861,700	APPEAL	\$8,861,700
Total:	\$13,265,400		\$13,265,400

BLOCK: 320
LOT: 18
STREET ADDRESS: 575 Mountain Avenue
YEAR: 2013

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land:	\$4,403,700	DIRECT	\$4,403,700
Impvts.:	\$8,861,700	APPEAL	\$8,861,700
Total:	\$13,265,400		\$13,265,400

BLOCK: 320
LOT: 18.01
STREET ADDRESS: 575 Mountain Avenue
YEAR: 2014

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land:	\$4,403,700	DIRECT	\$4,403,700
Impvts.:	\$8,861,700	APPEAL	\$8,861,700
Total:	\$13,265,400		\$13,265,400

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

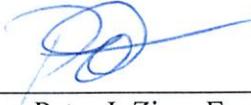
3. Based upon the foregoing, the undersigned represent to the Court that the above settlement will result in an assessment at the fair assessable value of the property consistent with assessing practices generally applicable in the taxing district as required by law.

4. Statutory interest, pursuant to N.J.S.A. 54:3-27.2, having been waived by taxpayer, shall not be paid provided the tax refund is paid within 60 days of the date of entry of the Tax Court judgment.

5. As an intrinsic part of this settlement, it is agreed that the Assessor shall set the initial 2015 assessment at total of \$13,265,400. In the event that the Assessor complies with this agreement, and the property does not sustain material loss or damage taxpayer may file an appeal only for the purpose of obtaining a judgment affirming the assessment to which municipality will consent. In the event the Assessor fails to set the assessment at \$13,265,400 on the tax list for 2015, taxpayer may file a Complaint for correction of errors or otherwise to set the assessment to the agreed amount and the Municipality will consent to the entry of a judgment to effectuate the agreement to fix the 2015 assessment as set forth above.

6. All provisions of this settlement not contained within the judgment shall survive entry of judgment.

ZIPP & TENNENBAUM, L.L.C.
Attorneys for Plaintiff,

By: 

Dated:

Peter J. Zipp, Esq.

SKOLOFF & WOLFE, P.C.
Attorneys for Defendant,

By: _____
William T. Rogers, III, Esq.

Dated: