

**RESOLUTION
OF THE
BOROUGH OF NEW PROVIDENCE
Resolution No. 2015-156**

Council Meeting Date: 04-13-2015

Date Adopted: 04-15-2015

TITLE: 755 Central Avenue, LLC v. New Providence Borough; Block 185, Lot 22 (now known as Block 185, Lot 22.01); and Block 185, Lots 22.02, 22.03, 22.05, 22.06, 22.07, 22.08 and 22.09; 755 Central Ave; Docket Nos. 003726-2012; 006469-2013 and 009083-2014

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

WHEREAS, 755 Central Ave, LLC ("Taxpayer"), the owner of Block 185, Lot 22 (now known as Block 185, Lot 22.01) and Block 185, Lots 22.02, 22.03, 22.05, 22.06, 22.07, 22.08 and 22.09 on the Borough of New Providence's Tax Assessment Maps, commonly known as 755 Central Ave ("Property"), filed an appeal of its 2012, 2013 and 2014 tax assessments in the Tax Court of New Jersey, Docket Nos. 003726-2012; 006469-2013 and 009083-2014.

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 185, Lot 22 was assessed at \$2,493,500 for the year 2012, 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 185, Lot 22; and

WHEREAS, the 2012 total tax assessment, based upon said reduction, will be \$2,100,000 instead of \$2,493,500 for Block 185, Lot 22; and

WHEREAS, the 2013 assessments for Block 185, Lots 22.01, 22.02, 22.03, 22.05, 22.06, 22.07, 22.08 and 22.09 shall be affirmed and the total tax assessments for Tax Year 2013 shall remain unchanged; and

WHEREAS, the 2014 assessments for Block 185, Lots 22.01, 22.02, 22.05, 22.06, 22.07, 22.08 and 22.09 shall be affirmed and the total tax assessments for Tax Year 2014 shall remain unchanged; 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 Judgments; 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:

The Borough of New Providence's Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$2,100,000 total tax assessment for the 2012 Tax Year for Block 185, Lot 22, which is most beneficial to the Borough of New Providence and advise the Special Tax Counsel of that allocation.

The Special Tax Counsel, Martin Allen, is hereby authorized to execute a Stipulation of Settlement relative to the tax appeals of 755 Central Avenue, LLC ("Taxpayer") Docket Nos. 003726-2012; 006469-2013; and 009083-2014 which reduces the tax assessment on Block 185, Lot 22 from \$2,493,500 to a total tax assessment of \$2,100,000 for the 2012 Tax Year; and which affirms the 2013 tax assessments for Block 185, Lots 22.01, 22.02, 22.03, 22.05, 22.06, 22.07, 22.08 and 22.09; and which affirms the 2014 tax assessments for Block 185, Lots 22.01, 22.02, 22.05, 22.06, 22.07, 22.08 and 22.09; and which 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.

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 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

Peter J. Zipp, Esq.-Attorney I.D.-022131986
 Michael J. Caccavelli, Esq.-Attorney I.D.-032851996
ZIPP & TANNENBAUM, L.L.C.
 166 Gatzmer Avenue
 Jamesburg, New Jersey 08831
 (732) 605-1000
 Attorney for Plaintiff

755 CENTRAL AVENUE, LLC,
Plaintiff,
 v.
 NEW PROVIDENCE BOROUGH,
Defendant.

 755 CENTRAL AVE LLC,
Plaintiff,
 v.
 NEW PROVIDENCE BOROUGH,
Defendant.

TAX COURT OF NEW JERSEY

DOCKET NO.: 003726-2012

Civil Action

STIPULATION OF SETTLEMENT

DOCKET NOS.: 006469-2013
 009083-2014

Assigned Judge:
Honorable Joshua D. Novin, J.T.C.
 First Calendar Date:

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

Block: 185
Lot: 22
Street Address: 755 Central Ave
Year: 2012

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 662,100 | Direct | \$ 662,100 |
| Impvts | \$1,831,400 | Appeal | \$1,437,900 |
| Total | \$2,493,500 | | \$2,100,000 |

Block: 185
Lot: 22.01
Street Address: 755 Central Avenue Unit 1
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|----------------------------|------------------------------|-------------------------------------|
| Land | \$ 384,400 | Direct | \$ 384,400 |
| Impvts | <u>\$1,091,700</u> | Appeal | <u>\$1,091,700</u> |
| Total | \$1,476,100 | | \$1,476,100 |

Block: 185
Lot: 22.02
Street Address: 755 Central Avenue Unit 2
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|----------------------------|------------------------------|-------------------------------------|
| Land | \$ 44,100 | Direct | \$ 44,100 |
| Impvts | <u>\$167,500</u> | Appeal | <u>\$167,500</u> |
| Total | \$211,600 | | \$211,600 |

Block: 185
Lot: 22.03
Street Address: 755 Central Avenue Unit 3
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|----------------------------|------------------------------|-------------------------------------|
| Land | \$ 50,100 | Direct | \$ 50,100 |
| Impvts | <u>\$190,200</u> | Appeal | <u>\$190,200</u> |
| Total | \$240,300 | | \$240,300 |

Block: 185
Lot: 22.05
Street Address: 755 Central Avenue Unit 5A
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 20,600 | Direct | \$ 20,600 |
| Impvts | \$ 78,400 | Appeal | \$ 78,400 |
| Total | \$ 99,000 | | \$ 99,000 |

Block: 185
Lot: 22.06
Street Address: 755 Central Avenue Unit 5B
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 49,700 | Direct | \$ 49,700 |
| Impvts | \$ 189,100 | Appeal | \$ 189,100 |
| Total | \$ 238,800 | | \$ 238,800 |

Block: 185
Lot: 22.07
Street Address: 755 Central Avenue Unit 6A
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 25,800 | Direct | \$ 25,800 |
| Impvts | \$ 97,700 | Appeal | \$ 97,700 |
| Total | \$ 123,500 | | \$ 123,500 |

Block: 185
Lot: 22.08
Street Address: 755 Central Avenue Unit 6B
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|----------------------------|------------------------------|-------------------------------------|
| Land | \$ 22,200 | Direct | \$ 22,200 |
| Impvts | <u>\$ 84,500</u> | Appeal | <u>\$ 84,500</u> |
| Total | \$ 106,700 | | \$ 106,700 |

Block: 185
Lot: 22.09
Street Address: 755 Central Avenue Unit 6C
Year: 2013

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|----------------------------|------------------------------|-------------------------------------|
| Land | \$ 24,400 | Direct | \$ 24,400 |
| Impvts | <u>\$ 92,700</u> | Appeal | <u>\$ 92,700</u> |
| Total | \$ 117,100 | | \$ 117,100 |

Block: 185
Lot: 22.01
Street Address: 755 Central Ave Unit 1
Year: 2014

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|----------------------------|------------------------------|-------------------------------------|
| Land | \$ 384,400 | Direct | \$ 384,400 |
| Impvts | <u>\$1,091,700</u> | Appeal | <u>\$1,091,700</u> |
| Total | \$1,476,100 | | \$1,476,100 |

Block: 185
Lot: 22.02
Street Address: 755 Central Ave Unit 2
Year: 2014

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 44,100 | Direct | \$ 44,100 |
| Impvts | <u>\$ 167,500</u> | Appeal | <u>\$ 167,500</u> |
| Total | \$ 211,600 | | \$ 211,600 |

Block: 185
Lot: 22.05
Street Address: 755 Central Ave Unit 5A
Year: 2014

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 20,600 | Direct | \$ 20,600 |
| Impvts | <u>\$ 78,400</u> | Appeal | <u>\$ 78,400</u> |
| Total | \$ 99,000 | | \$ 99,000 |

Block: 185
Lot: 22.06
Street Address: 755 Central Ave Unit 5B
Year: 2014

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 49,700 | Direct | \$ 49,700 |
| Impvts | <u>\$ 189,100</u> | Appeal | <u>\$ 189,100</u> |
| Total | \$ 238,800 | | \$ 238,800 |

Block: 185
 Lot: 22.07
 Street Address: 755 Central Ave Unit 6A
 Year: 2014

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 25,800 | Direct | \$ 25,800 |
| Impvts | \$ 97,700 | Appeal | \$ 97,700 |
| Total | \$ 123,500 | | \$ 123,500 |

Block: 185
 Lot: 22.08
 Street Address: 755 Central Ave Unit 6B
 Year: 2014

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 22,200 | Direct | \$ 22,200 |
| Impvts | \$ 84,500 | Appeal | \$ 84,500 |
| Total | \$ 106,700 | | \$ 106,700 |

Block: 185
 Lot: 22.09
 Street Address: 755 Central Ave Unit 6C
 Year: 2014

| | <u>Original Assessment</u> | <u>County Board Judgment</u> | <u>Requested Tax Court Judgment</u> |
|--------|--------------------------------|----------------------------------|---|
| Land | \$ 24,400 | Direct | \$ 24,400 |
| Impvts | \$ 92,700 | Appeal | \$ 92,700 |
| Total | \$ 117,100 | | \$ 117,100 |

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. 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.

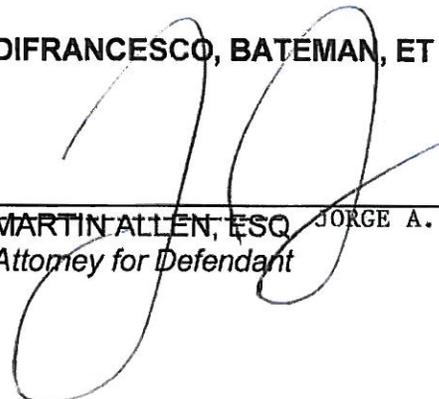
BY:



MICHAEL J. CACCAVELLI, ESQ.
Attorney for Plaintiff

DIFRANCESCO, BATEMAN, ET ALS.

BY:



MARTIN ALLEN, ESQ. JORGE A. SANCHEZ, ESQ.
Attorney for Defendant

Dated: