

**RESOLUTION
OF THE
BOROUGH OF NEW PROVIDENCE**
Resolution No. 2016-264

Council Meeting Date: 08-08-2016

Date Adopted: 08-08-2016

TITLE: 139 REALTY, LLC V. BOROUGH OF NEW PROVIDENCE, BLOCK 170, LOT 38 (TAX YEARS 2014 & 2015); BLOCK 170, LOT 38.01 (TAX YEAR 2016); 139 SOUTH STREET; DOCKET NOS. 007009-2014; 000399-2015 AND 001332-2016

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

WHEREAS, 139 Realty, LLC (“Taxpayer”), the owner of Block 170, Lot 38 (Tax Years 2014 & 2015) and Block 170, Lot 38.01 (Tax Year 2016) on the Borough of New Providence’s Tax Assessment Maps, commonly known as 139 South Street (“Property”), filed an appeal of its 2014, 2015 and 2016 tax assessments in the Tax Court of New Jersey, Docket Nos. 007009-2014; 000399-2015 and 001332-2016.

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

WHEREAS, Block 170, Lot 38 and Block 170, Lot 38.01 were assessed at \$1,186,000 for all years under appeal; and

WHEREAS, an acceptable settlement of the aforesaid tax appeals has been negotiated which reduces the total tax assessment levied upon Taxpayer’s property located at Block 170, Lot 38 and Block 170, Lot 38.01; and

WHEREAS, the 2014 total tax assessment, based upon said reduction, will be \$777,600 instead of \$1,186,000 for Block 170, Lot 38; and

WHEREAS, the 2015 total tax assessment, based upon said reduction, will be \$802,500 instead of \$1,186,000 for Block 170, Lot 38; and

WHEREAS, the 2016 total tax assessment, based upon said reduction, will be \$884,600 instead of \$1,186,000 for Block 170, Lot 38.01; 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:

1. The Borough of New Providence's Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$777,600 total tax assessment for the 2014 Tax Year for Block 170, Lot 38, which is most beneficial to the Borough of New Providence and advise the Borough Attorney of that allocation.
2. The Borough of New Providence's Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$802,500 total tax assessment for the 2015 Tax Year for Block 170, Lot 38, which is most beneficial to the Borough of New Providence and advise the Borough Attorney of that allocation.
3. The Borough of New Providence's Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$884,600 total tax assessment for the 2016 Tax Year for Block 170, Lot 38.01, which is most beneficial to the Borough of New Providence and advise the Borough Attorney of that allocation.
4. The Borough Attorney, Martin Allen, is hereby authorized to execute a Stipulation of Settlement relative to the tax appeals of 139 Realty, LLC ("Taxpayer") Docket Nos. 007009-2014, 000399-2015 and 001332-2016, which reduces the tax assessment on Block 170, Lot 38 from \$1,186,000 to a total tax assessment of \$777,600 for the 2014 Tax Year; which reduces the tax assessment on Block 170, Lot 38 from \$1,186,000 to a total tax

assessment of \$802,500 for the 2015 Tax Year; which reduces the tax assessment on Block 170, Lot 38.01 from \$1,186,000 to a total tax assessment of \$884,600 for the 2016 Tax Year; 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.

5. 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 8th day of August, 2016.

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 8th day of August, 2016.

Wendi B. Barry, Borough Clerk

Peter J. Zipp, Esq. - Attorney I.D. 022133486
 Paul Tannenbaum, Esq. – Attorney I.D. 014211993
ZIPP TANNENBAUM & CACCAVELLI, LLC
 280 Raritan Center Parkway
 Edison, New Jersey 08837
 (732) 605-1000
 Attorney for Plaintiff

TAX COURT OF NEW JERSEY

139 REALTY, LLC, <p style="text-align: center;"><i>Plaintiff,</i></p> <p style="text-align: center;">v.</p> NEW PROVIDENCE BOROUGH, <p style="text-align: center;"><i>Defendant.</i></p> <hr style="border: 0.5px solid black;"/>	: DOCKET NO.: 007009-2014; : 000399-2015; 001332-2016 : : : Civil Action : : STIPULATION OF SETTLEMENT : : Assigned Judge: : <u>Hon. Joshua D. Novin, J.T.C.</u> : : 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: 170
Lot: 38
Street Address: 139 South Street
Year: 2014

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 533,200	Direct	\$ 533,200
Impvts	\$ <u>652,800</u>	Appeal	\$ <u>244,400</u>
Total	\$1,186,000		\$ 777,600

Block: 170
 Lot: 38
 Street Address: 139 South Street
 Year: 2015

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 533,200	Direct	\$ 533,200
Impvts	\$ <u>652,800</u>	Appeal	\$ <u>269,300</u>
Total	\$1,186,000		\$ 802,500

Block: 170
 Lot: 38.01
 Street Address: 139 South Street
 Year: 2016

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 533,200	Direct	\$ 533,200
Impvts	\$ <u>652,800</u>	Appeal	\$ <u>351,400</u>
Total	\$1,186,000		\$ 884,600

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 & Caccavelli, L.L.C., 280

Raritan Center Parkway, Edison, New Jersey 08837 within sixty (60) days of the date of entry of the Judgment pursuant to N.J.S.A. 54:3-27.2.

ZIPP TANNENBAUM & CACCAVELLI, LLC

BY:



PAUL TANNENBAUM, ESQ.
Attorney for Plaintiff

**DiFRANCESCO BATEMAN KUNZMAN
DAVIS LEHRER & FLAUM, P.C.**

BY:

SANDRA BELLI, ESQ.
Attorney for Defendant

Dated: