

RESOLUTION
OF THE
BOROUGH OF NEW PROVIDENCE
Resolution No. 2016-341

Council Meeting Date: 11-14-2016

Date Adopted: 11-14-2016

TITLE: DAVANNE REALTY, ET AL. c/o MANDELBAUM v. BOROUGH OF NEW PROVIDENCE, BLOCK 340, LOT 8; 140 SPRING STREET DOCKET NOS. 005272-2015 AND 002545-2016

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

WHEREAS, Davanne Realty, et al. c/o Mandelbaum (“Taxpayer”), the owner of Block 340, Lot 8 on the Borough of New Providence’s Tax Assessment Maps, commonly known as 140 Spring Street (“Property”), filed an appeal of its 2015 and 2016 tax assessments in the Tax Court of New Jersey, Docket Nos. 005272-2015 and 002545-2016.

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 340, Lot 8 was assessed at \$2,262,000 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 340, Lot 8; and

WHEREAS, the 2015 total tax assessment, based upon said reduction, will be \$1,988,700 instead of \$2,262,000 for Block 340, Lot 8; and

WHEREAS, the 2016 total tax assessment, based upon said reduction, will be \$1,934,400 instead of \$2,262,000 for Block 340, Lot 8; 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 parties have agreed that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall apply to the assessment for Tax Year 2017; 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 \$1,988,700 total tax assessment for the 2015 Tax Year for Block 340, Lot 8, 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 \$1,934,400 total tax assessment for the 2016 Tax Year for Block 340, Lot 8, which is most beneficial to the Borough of New Providence and advise the Borough Attorney of that allocation.
3. The Borough Attorney, Martin Allen, is hereby authorized to execute a Stipulation of Settlement relative to the tax appeals of Davanne Realty, et al. c/o Mandelbaum ("Taxpayer") Docket Nos. 005272-2015 and 002545-2016, which reduces the tax assessment on Block 340, Lot 8 from \$2,262,000 to a total tax assessment of \$1,988,700,600 for the 2015 Tax Year; which reduces the tax assessment on Block 340, Lot 8 from \$2,262,000 to a total tax assessment of \$1,934,400 for the 2016 Tax Year; 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; and which provides that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall apply to the assessment for Tax Year 2017.
4. 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 14th day of November, 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 14th day of November, 2016.

Wendi B. Barry, Borough Clerk

MEMORANDUM

To: Doug Marvin, Administrator
Wendi Barry, Borough Clerk
Mike Gennaro, Jim Madden

From: Bryan Flynn, CTA

Date: November 8, 2016

RE: *Resolution for Block: 340, Lot: 8 - 140 Sprig Street (TY 2015 & 2016)*
Dockets: 005272-2015 & 002545-2016

Please find attached Stipulation and Resolution regarding the settlement of captioned dockets pending Mayor and Council approval at the Monday, November 14 meeting.

The subject property is a 67,000 square foot industrial warehouse built in 1961. For tax years 2015 and 2016, 140 Sprig Street was assessed at 2,262,000 - implying a market value of \$4,250,000, or \$63/sf. In that the subject physically wears its age, it is sub-par to market standards; thusly draws below market rents compared to typical industrial properties. Typical values for comparable properties would run as low as \$50/sf. For the years under appeal, a settlement has been negotiated for \$55/sf.

The following tables illustrate pre/post tax dollars:

2015

	Original	Revised	Difference
Municipal:	21,014	18,475	2,539
School:	59,762	52,541	7,221
County:	22,643	19,907	2,736
Library:	1,402	1,233	169
TOTAL:	104,821	92,156	12,665

2016

	Original	Revised	Difference
Municipal:	21,331	18,241	3,089
School:	60,328	51,590	8,737
County:	23,208	19,847	3,361
Library:	1,425	1,219	206
Total:	106,219	90,897	15,394

Upon review and analysis of all data of the subject property for appealed years, this settlement offer is both fair and best for New Providence.

With any questions regarding this matter, please feel free to contact.

/bf

CONFIDENTIAL

THE IRWIN LAW FIRM, P.A.

80 MAIN STREET, SUITE 410
WEST ORANGE, NEW JERSEY 07052
TEL: (973) 325-0191
FAX: (973) 325-2876
WWW.NJRETAX.COM

STEVEN R. IRWIN
NJ & NY BAR
ID # 015001979

AMBER N. HEINZE
NJ & NY BAR
ID # 028372001

PABLO M. KIM
NJ & NY BAR
ID # 075442014

ALAN VUERNICK Z^{PL} (2003)
NJ & NY BAR

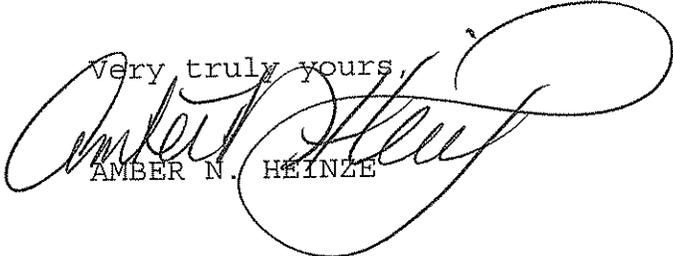
October 5, 2016

Sandra Belli, Esq.
15 Mountain Blvd.
Warren, N.J. 07059

Re: Davanne Realty c/o Mandelbaum v. New Providence Bor.
Block 340, Lot 8; 140 Spring Street
Docket Nos. 005272-15 & 002545-16

Dear Ms. Belli:

Enclosed please find an original Stipulation of Settlement regarding the above-captioned matter. Kindly sign and forward same directly to Hon. Joshua Novin, P.J.T.C.

Very truly yours,

AMBER N. HEINZE

ANH/md

Encl.



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

ATTORNEY ID: 028372001
 DAVANNE REALTY ETAL C/O :
 MANDELBAUM :
 Plaintiff, :
 -v- :
 NEW PROVIDENCE BOROUGH :
 Defendant :

TAX COURT OF NEW JERSEY
 Docket Nos. 005272-15
 002545-16
 STIPULATION OF SETTLEMENT
 (Without Affidavit)
 Hon. Joshua D. Novin, P.J.T.C.
 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: 340 Lot: 8
 Year: 2015
 Street Address: 140 Spring Street

	Original Assessment	County Board Judgment	Requested Tax Court Judgment
Land	\$ 869,500	DIRECT	\$ 869,500
Improvements	\$ 1,392,500	APPEAL	\$ 1,119,200
TOTAL	\$ 2,262,000		\$ 1,988,700

Block: 340 Lot: 8
 Year: 2016
 Street Address: 140 Spring Street

	Original Assessment	County Board Judgment	Requested Tax Court Judgment
Land	\$ 869,500	DIRECT	\$ 869,500
Improvements	\$ 1,392,500	APPEAL	\$ 1,064,900
TOTAL	\$ 2,262,000		\$ 1,934,400

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.

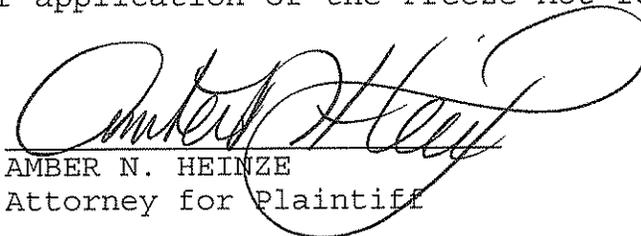
3. Based upon the foregoing, the undersigned represent to the court that the above settlement will result in an assessment at the fair assessable value of the property(ies) consistent with assessing practices generally applicable in the taxing district as required by law.

4. Statutory interest is waived on the condition that this Stipulation of Settlement is signed by counsel for the municipal defendant and provided the refund is made 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 F.B.O. Davanne Realty Etal c/o Mandelbaum, Plaintiff.

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

7. The Freeze Act shall apply for Tax Year 2017. The parties agree that there has been no change in value or municipal-wide revaluation or reassessment adopted for the tax year 2017, and therefore agree that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall be applicable to and a final disposition of this case and the entire controversy and of any actions pending or hereafter instituted by the parties concerning the assessment on the property referred to herein for said Freeze Act year(s). No Freeze Act year(s) shall be the basis for application of the Freeze Act for any subsequent year(s).



AMBER N. HEINZE
Attorney for Plaintiff

Dated: October 5, 2016

SANDRA BELLI
Attorney for Defendant

Dated: