

RESOLUTION
OF THE
BOROUGH OF NEW PROVIDENCE
UNION COUNTY, NEW JERSEY
Resolution No. 2017-48

Council Meeting Date: 1-23-2017

Date Adopted: 1-23-2017

TITLE: KEVIN B. AND CANDISE DUNLEAVY V. BOROUGH OF NEW PROVIDENCE BLOCK 300, LOT 4; 163 OAKWOOD DRIVE, DOCKET NO. 006464-2016

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

WHEREAS, Kevin B. and Candise Dunleavy (“Taxpayer”), the owners of Block 300, Lot 4 on the Borough of New Providence’s Tax Assessment Maps, commonly known as 163 Oakwood Drive (“Property”), filed an appeal of their 2016 tax assessment in the Tax Court of New Jersey, Docket No. 006464-2016.

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 Borough Attorney, DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C.

WHEREAS, Block 300, Lot 4 was assessed at \$1,319,200 for the year under appeal; 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 300, Lot 4; and

WHEREAS, the 2016 total tax assessment, based upon said reduction, will be \$1,284,100 instead of \$1,319,200 for Block 300, Lot 4; 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 Judgment; 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 \$1,284,100 total tax assessment for the 2016 Tax Year for Block 300, Lot 4, which is most beneficial to the Borough of New Providence and advise the Borough Attorney of that allocation.
2. The Borough Attorney, Martin Allen, is hereby authorized to execute a Stipulation of Settlement relative to the tax appeal of Kevin V. and Candise Dunleavy ("Taxpayer") Docket No. 006464-2016, which reduces the tax assessment on Block 300, Lot 4 from \$1,319,200 to a total tax assessment of \$1,284,100 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.

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 23rd day of January, 2017.

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 23rd day of January, 2017

Wendi B. Barry, Borough Clerk

MEMORANDUM

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

From: Bryan Flynn, CTA

Date: January 17, 2017

RE: *Resolution for Block 300, Lot 4 – 163 Oakwood Dr
Tax Year 2016*

Please find attached Stipulation of Settlement and Resolution regarding the tentative settlement agreement pending Mayor and Council approval at the Monday, January 23 meeting.

The subject property is a 5,800 square foot single family dwelling assessed at 1,319,200 in 2016, suggesting an implied value of \$2.5 million.

Upon review, it was made apparent that a 5,400 square foot additional detached improvement had been valued on the lot under appeal when in actuality it exists on the adjacent Lot 3 also owned by the taxpayer. Reviewing the values of each property for the 2017 Tax Book, the adjusted Assessments are reflected as such:

Block-Lot	2016 AV	2016 MV	2017 AV	2017 MV	AV Difference
300-4	1,319,200	2,534,973	959,400	1,870,540	-359,800
300-3	247,400	474,634	572,100	1,115,422	+324,700

Total AV Difference: -35,100

The Property Assessments have been entered in the 2017 Tax Book as such to amend the existing inaccuracy, and a settlement has been reached for the 2016 Assessment to reflect the total reduction moving forward (-35,100).

The following table illustrates pre/post tax dollars:

Tax Year 2016	Original	Revised	Difference
Municipal:	\$12,440	\$12,109	\$331
County:	\$13,535	\$13,175	\$360
Library:	\$831	\$809	\$22
School:	\$35,183	\$34,247	\$936
Total:	\$61,989	\$60,340	\$1,649

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

CONFIDENTIAL

Jennifer R. Jacobus, Esq. #006762000
JACOBUS & ASSOCIATES, LLC
201 Littleton Road, 1st Floor
Morris Plains, New Jersey 07950
P: (973) 535-3032
F: (973) 741-2370

Attorneys for PLAINTIFF

TAX COURT OF NEW JERSEY
DOCKET NO.: 006464-2016

DUNLEAVY, KEVIN B & CANDISE

Plaintiff,

Civil Action

vs.

STIPULATION OF SETTLEMENT
(Without Affidavit)

BOROUGH OF NEW PROVIDENCE

Defendant.

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

BLOCK: 300

LOT: 4

STREET ADDRESS: 163 OAKWOOD DR

Year: 2016	<u>ORIGINAL ASSESSMENT</u>	<u>COUNTY BOARD JUDGMENT</u>	<u>TAX COURT JUDGMENT</u>
LAND	\$348,100	0	\$348,100
IMPROVEMENTS	\$971,100	0	\$936,000
TOTAL	\$1,319,200	0	\$1,284,100

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) they deem necessary and appropriate for the purpose of enabling them to enter into the Stipulation. The assessor to 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.

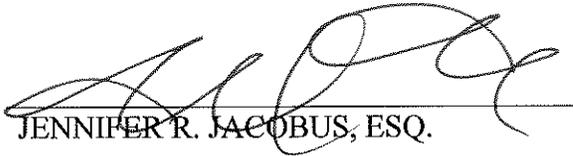
4. All refunds as a result of the settlement set forth herein shall be paid by refund check, made payable to: 'Jennifer R. Jacobus, Esq., Attorney for DUNLEAVY, KEVIN B & CANDISE', and forwarded to Jennifer R. Jacobus, Esq., JACOBUS & ASSOCIATES, LLC, 201 Littleton Road, 1st Floor, Morris Plains NJ 07950 within sixty (60) days of the date of the Judgment.

5. Statutory interest pursuant to N.J.S.A. 54:3-27.2 is waived by the taxpayer and shall not be paid on the condition the refund is received pursuant to Paragraph 4 hereof within 60 days from the date of the entry of the Judgment.

6. The provisions of paragraph 4 and 5 shall survive Judgment even if not included on the Judgment issued by the Tax Court of New Jersey.

7. All counterclaims will be withdrawn as part of this settlement.

JACOBUS & ASSOCIATES, LLC
Attorneys for Plaintiff,

BY: 
JENNIFER R. JACOBUS, ESQ.

DATED: 1-10-17

DEFENDANT

BY: _____
Sandra Belli, Esq.

DATED: