

**RESOLUTION
OF THE
BOROUGH OF NEW PROVIDENCE
Resolution No. 2017-287**

Council Meeting Date: 12-04-2017

Date Adopted: 12-04-2017

TITLE: BAC Center of Excellence, LLC v. Borough of New Providence Block 220, Lot 23; 629 Central Avenue Docket Nos. 013572-2016 and 001484-2017

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

WHEREAS, BAC Center of Excellence, LLC (“Taxpayer”), the owner of Block 220, Lot 23 on the Borough of New Providence’s Tax Assessment Maps, commonly known as 629 Central Avenue (“Property”), filed an appeal of its 2016 prorated added improvement assessment and 2017 total tax assessment in the Tax Court of New Jersey, Docket Nos. 013572-2016 and 001484-2017; and

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.; and

WHEREAS, Block 220, Lot 23 was assessed at \$6,029,400 for the years under appeal; and

WHEREAS, an acceptable settlement of the aforesaid tax appeals has been negotiated which reduces the 2016 prorated added improvement assessment and 2017 total tax assessment levied upon Taxpayer’s property located at Block 220, Lot 23; and

WHEREAS, the 2016, seven month prorated, added improvement assessment shall be reduced from \$1,533,817 to \$1,337,583 for Block 220, Lot 23; and

WHEREAS, the 2017 total tax assessment, based upon said reduction, will be \$5,611,000 instead of \$6,029,400 for Block 220, Lot 23; and

WHEREAS, the 2018 total tax assessment, based upon said reduction, shall be set by the assessor at \$5,484,200 instead of \$6,029,400 for Block 220, Lot 23; 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 set a seven month prorated, added improvement assessment of \$1,337,583 for the 2016 Tax Year for Block 220, Lot 23,
2. The Borough of New Providence's Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$5,611,000 total tax assessment for the 2017 Tax Year for Block 220, Lot 23, 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 \$5,484,200 total tax assessment for the 2018 Tax Year for Block 220, Lot 23, 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 BAC Center of Excellence, LLC ("Taxpayer") Docket Nos. 0013572-2016 and 001484-2017, which reduces the seven month prorated, added improvement assessment on Block 220, Lot 23 from \$1,533,817 to \$1,337,583 for the 2016 Tax Year; which reduces the tax assessment on Block 220, Lot 23 from \$6,029,400 to a total tax assessment of \$5,611,000 for the 2017 Tax Year; which reduces the tax assessment on Block 220, Lot 23 from \$6,029,400 to a total tax assessment of \$5,484,200 for the 2018 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 4th day of December, 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 4th day of December, 2017.

Wendi B. Barry, Borough Clerk

DAY PITNEY LLP

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(973) 966-6300

Christopher John Stracco, Esq.
Attorney ID # 022571988

Attorneys For Plaintiff

TAX COURT OF NEW JERSEY
DOCKET NO.:

BAC CENTER OF EXCELLENCE, LLC,	:	Civil Action
Plaintiff,	:	
v.	:	COMPLAINT
	:	(Real Property Tax)
BOROUGH OF NEW PROVIDENCE,	:	
Defendant.	:	
	:	

Plaintiff BAC Center of Excellence, LLC, with a principal place of business at 629 Central Avenue, in the Borough of New Providence (“Plaintiff”), by way of Complaint against Defendant Borough of New Providence, says:

FIRST COUNT

1. Plaintiff is the owner of the real property located at Block 220, Lot 23, a/k/a 629 Central Avenue, in the taxing district of the Borough of New Providence, County of Union, State of New Jersey.

2. This Complaint seeks review of one separately assessed property with a total assessment in excess of \$1,000,000, and with an added assessment in excess of \$750,000.

3. On or about October 13, 2016 Plaintiff received correspondence from the Assessor indicating that an added or omitted assessment was being applied to the subject property for the 2016 tax year. A true copy of the correspondence is attached hereto as Exhibit A.

7. Added assessments have been levied on the subject property for the 2016 tax year in the amount set forth on the tax bill attached hereto as Exhibit B.

8. The combined assessments of the property, including said added assessment, are in excess of the true value of the property.

9. The said added assessment is in excess of the true value of the improvements so added.

WHEREFORE, plaintiff demands judgment reducing the said added assessment to reflect the true value of the subject properties and such other relief as may be appropriate.

SECOND COUNT

1. It repeats and makes a part hereof the allegations contained in paragraphs 1 through 9 of the First Count.

2. The said added assessments for the year 2016 are not in accordance with that common level of assessment, or whatever ratio or percentage of full or true value at which other property in the Borough of New Providence is being assessed.

3. Said added assessments are contrary to and in violation of Article 8, Section 1, of the New Jersey State Constitution of 1947, and the Fourteenth Amendment of the U.S. Constitution.

4. Said added assessments are not made according to uniform rules or according to the same standard of value at which other property in the Borough of New Providence is assessed.

5. Said added assessments are arbitrary, unreasonable, unequal and discriminatory in comparison with other assessments in the Borough of New Providence.

6. Said added assessments are made at a higher percentage of full or true value than other assessments made by the Borough of New Providence on other properties in the Borough of New Providence.

WHEREFORE, plaintiff demands judgment reducing said added assessments to be in accordance with the general ratio, percentage or common level of assessments and such other relief as may be appropriate.

DAY PITNEY LLP
Attorneys for Plaintiff
BAC Center of Excellence, LLC

By: 
CHRISTOPHER JOHN STRACCO
A Member of the Firm

DATED: November 28, 2016

CERTIFICATION OF SERVICE

1. On this day, I, the undersigned, sent for service upon the Clerk of the Borough of New Providence by certified mail, return receipt requested, a copy of the within Complaint.
2. On this day, I, the undersigned, sent for service upon the Assessor of the Borough of New Providence by certified mail, return receipt requested, a copy of the within Complaint.
3. On this day, I, the undersigned, sent for service upon the Administrator of the Union County Board of Taxation by certified mail, return receipt requested, a copy of the within Complaint.
4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



CHRISTOPHER JOHN STRACCO

DATED: November 29, 2016

EXHIBIT A

B O R O U G H O F
NEW PROVIDENCE
SETTLED IN 1720

TAX/FINANCE DEPARTMENT
Al Morgan, Mayor
Ken DeRoberts, CFO
Denise Brinkofski, Tax Collector

ADDED/OMITTED ASSESSMENT TAX BILL

October 13, 2016

Dear Property Owner:

The enclosed tax bill reflects the additional assessment that was placed on your property due to upgrades (examples: new deck, kitchen or bathroom updates, central air conditioning, new home construction, etc.). You received a letter about a week ago from the Tax Assessor's office regarding this change in assessment. If you have any questions regarding this increase please contact the Tax Assessor's Office at 908-665-8271.

Please keep this bill with the regular tax bill you received earlier this year. When making payment please add the amount from the appropriate added assessment bill stub(s) and the regular tax bill stub you already received. If your taxes are paid by your mortgage company you may need to forward them a copy of this bill.

If you have any further questions please do not hesitate to contact me.

Cordially,

Denise Brinkofski
Tax Collector
908-665-8031
dbrinkofski@newprov.org

EXHIBIT B

2016 FINAL/2017 PRELIMINARY TAX BILL BOROUGH OF NEW PROVIDENCE UNION COUNTY

BLOCK NUMBER	LOT NUMBER	QUALIFICATION
220	23	

Property Locat: 629 CENTRAL AVE
 Building Desc: ADDITION/POOLS
 Additional Lots
 Land Demens: 6.800 AC
 Bank: Mortgage #
 Tax Acct: 00231800

EXPLANATION OF TAXES		
DESCRIPTION	RATE PER \$100	AMOUNT OF TAX
COUNTY TAX	0.998	15307.50
CTY OPEN SP, REC&HIST P	0.028	429.47
DISTRICT SCHOOL TAX	2.667	40906.90
LOCAL MUNICIPAL TAX	0.938	14387.20
MUNICIPAL OPEN SPACE	0.005	76.69
MUNICIPAL LIBRARY TAX	0.063	966.30

ASSESSED VALUATION INFORMATION

LAND	IMPROVEMENTS	TOTAL
0	2629400	2629400
EXEMPTIONS ▶		NET TAXABLE VALUE ▶ 1533817

2016 TOTAL TAX	4.699	72074.06
2016 NET TAX		72074.06
BALANCE OF 2016 TAX		72074.06
2016 ADDED	7 MOS. PRORATED	

2016 3RD QTR DUE AUG. 1, 2016	2016 4TH QTR DUE NOV. 1, 2016	2017 1ST QTR DUE FEB. 1, 2017	2017 2ND QTR DUE MAY 1, 2017
	72074.06	30888.88	30888.88

INFORMATION FOR TAXPAYERS

MAKE CHECK PAYABLE TO: BOROUGH OF NEW PROVIDENCE

MAIL TO: TAX COLLECTOR
 360 ELKWOOD AVENUE
 NEW PROVIDENCE, NJ 07974
 908-665-8031

SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

THIS BILL IS IN ADDITION TO THE REGULAR BILL YOU RECEIVED EARLIER THIS YEAR. PLEASE ADD THE STUBS TOGETHER. NEXT PAYMENT DUE 11/1/16 WITH A GRACE PERIOD END DATE OF 11/10/16. IF YOU HAVE ANY QUESTIONS PLEASE CALL THE TAX COLLECTOR AT 908-665-8031 OR VISIT THE BOROUGH WEBSITE AT WWW.NEWPROV.ORG

2017 PRELIMINARY TAX

PRELIMINARY TAX IS EQUAL TO ONE HALF OF 2016 TOTAL NET TAX **61777.76**

DISTRIBUTION OF TAXES

County Taxes	21.83%	\$ 15736.97
School Taxes	56.76%	\$ 40906.90
Municipal Taxes	21.41%	\$ 15430.19

STATE AID USED TO OFFSET LOCAL PROPERTY TAXES: The budgets of the government agencies funded by this tax bill include State aid used to reduce property taxes. State aid offset information for current year municipal tax bills will start becoming available at the end of July. Access the Division of Local Government Services website at http://www.nj.gov/dca/divisions/dlgs/resources/property_tax.html to find (based on the assessed value of this parcel) the amount of state aid used to offset property taxes on this parcel.

BOROUGH OF NEW PROVIDENCE UNION COUNTY **2017-2**

TAX COLLECTOR'S STUB-DETACH AND RETURN WITH YOUR PAYMENT
 2017 2ND QUARTER TAX DUE MAY 1, 2017

BLOCK NUMBER	LOT NUMBER	QUALIFICATION	BANK CODE
220	23		

TAX ACCOUNT NUMBER	TAX BILL NUMBER	TAX AMOUNT BILLED	DUE MAY 1, 2017
00231800			30888.88

ADJUSTMENT

INTEREST

CASH

CHECK

TOTAL

BAC CENTER OF EXCELLENCE LLC
 629 CENTRAL AVE
 2016 ADDED

BOROUGH OF NEW PROVIDENCE UNION COUNTY **2017-1**

TAX COLLECTOR'S STUB-DETACH AND RETURN WITH YOUR PAYMENT
 2017 1ST QUARTER TAX DUE FEBRUARY 1, 2017

BLOCK NUMBER	LOT NUMBER	QUALIFICATION	BANK CODE
220	23		

TAX ACCOUNT NUMBER	TAX BILL NUMBER	TAX AMOUNT BILLED	DUE FEBRUARY 1, 2017
00231800			30888.88

ADJUSTMENT

INTEREST

CASH

CHECK

TOTAL

BAC CENTER OF EXCELLENCE LLC
 629 CENTRAL AVE
 2016 ADDED

BOROUGH OF NEW PROVIDENCE UNION COUNTY **2016-4**

TAX COLLECTOR'S STUB-DETACH AND RETURN WITH YOUR PAYMENT
 2016 4TH QUARTER TAX DUE NOVEMBER 1, 2016

BLOCK NUMBER	LOT NUMBER	QUALIFICATION	BANK CODE
220	23		

TAX ACCOUNT NUMBER	TAX BILL NUMBER	TAX AMOUNT BILLED	DUE NOVEMBER 1, 2016
00231800			72074.06

ADJUSTMENT

INTEREST

CASH

CHECK

TOTAL

2016 ADDED

BAC CENTER OF EXCELLENCE LLC
 629 CENTRAL AVE

BOROUGH OF NEW PROVIDENCE UNION COUNTY **2016-3**

TAX COLLECTOR'S STUB-DETACH AND RETURN WITH YOUR PAYMENT
 2016 3RD QUARTER TAX DUE AUGUST 1, 2016

BLOCK NUMBER	LOT NUMBER	QUALIFICATION	BANK CODE
220	23		

TAX ACCOUNT NUMBER	TAX BILL NUMBER	TAX AMOUNT BILLED	DUE AUGUST 1, 2016
00231800			

ADJUSTMENT

INTEREST

CASH

CHECK

TOTAL