

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2018-192

Council Meeting Date: 07-16-2018

Date Adopted: 07-16-2018

TITLE: BOC GROUP, INC. v. Borough of New Providence, Block 320, Lot 18.01;
575 Mountain Avenue, Docket Nos.: 006250-2016; 001292-2017 and
003994-2018

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

WHEREAS, BOC Group, Inc., (“Taxpayer”), the owner of Block 320, Lot 18.01 on the Borough of New Providence’s Tax Assessment Maps, commonly known as 575 Mountain Avenue (“Property”), filed an appeal of its 2016, 2017 and 2018 tax assessments in the Tax Court of New Jersey, Docket Nos. 006250-2016; 001292-2017 and 003994-2018.

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 320, Lot 18.01 was assessed at \$13,265,400 for all years under appeal; and

WHEREAS, the 2016 total tax assessment, based upon said reduction, will be \$9,646,700 instead of \$13,265,400 for Block 320, Lot 18.01; and

WHEREAS, the 2017 total tax assessment, based upon said reduction, will be \$9,697,600 instead of \$13,265,400 for Block 320, Lot 18.01; and

WHEREAS, the 2018 total tax assessment, based upon said reduction, will be \$6,632,700 instead of \$13,265,400 for Block 320, Lot 18.01; and

WHEREAS, Taxpayer waives application of the provisions of N.J.S.A. 54:51A-8 (Freeze Act); and

WHEREAS, the parties agree that the property’s 2019 total assessment shall be \$9,675,100 and further agree that either party shall have the right to file a tax appeal for the 2019 Tax Year to obtain a Judgment to implement, enforce and/or confirm the assessment; and

WHEREAS, Taxpayer has agreed that any refunds due as a result of this settlement shall be without interest provided that the refund is paid 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 \$9,646,700 total tax assessment for the 2016 Tax Year for Block 320, Lot 18.01, 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 \$9,697,600 total tax assessment for the 2017 Tax Year for Block 320, Lot 18.01, 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 \$6,632,700 total tax assessment for the 2018 Tax Year for Block 320, Lot 18.01, 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 BOC Group, Inc. ("Taxpayer") Docket Nos. 006250-2016, 001292-2017 and 003994-2018, which reduces the tax assessment on Block 320, Lot 18.01 from \$13,265,400 to a total tax assessment of \$9,646,700 for the 2016 Tax Year; which reduces the tax assessment on Block 320, Lot 18.01 from \$13,265,400 to a total tax assessment of \$9,697,600 for the 2017 Tax Year; which reduces the tax

assessment on Block 320, Lot 18.01 from \$13,265,400 to a total tax assessment of \$6,632,700 for the 2018 Tax Year; which provides that Taxpayer waives application of the provisions of N.J.S.A.54:51A-8 (Freeze Act); which further provides that the 2019 shall be set at a total tax assessment of \$9,675,100 and that either party shall have the right to file a tax appeal for the 2019 Tax Year to obtain a Judgment to implement, enforce and/or confirm the assessment; and which provides that any refunds due as a result of this settlement shall be without interest provided that the refund is paid 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 16th day of July, 2018.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GENNARO			X	
GEOFFROY	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 16th day of July, 2018.

Wendi B. Barry, Borough Clerk

Peter J. Zipp, Esq. - Attorney I.D. 022131986
ZIPP & TANNENBAUM, LLC
 280 Raritan Center Parkway
 Edison, New Jersey 08837
 (732) 605-1000
Attorney for Plaintiff

TAX COURT OF NEW JERSEY

BOC GROUP, INC.,

Plaintiff,

 v.

 NEW PROVIDENCE BOROUGH,

Defendant.

DOCKET NOS.: 006250-2016,
 001292-2017 and 003994-2018

Civil Action

STIPULATION OF SETTLEMENT

Assigned Judge:
Honorable Michael J. Gilmore, 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: 320
Lot: 18.01
Street Address: 575 Mountain Avenue
Year: 2016

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 4,403,700	Direct	\$4,403,700
Impvts	<u>\$ 8,861,700</u>	Appeal	<u>\$5,243,000</u>
Total	\$13,265,400		\$9,646,700

Block: 320
Lot: 18.01
Street Address: 575 Mountain Avenue
Year: 2017

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 4,403,700	Direct	\$4,403,700
Impvts	<u>\$ 8,861,700</u>	Appeal	<u>\$5,293,900</u>
Total	\$13,265,400		\$9,697,600

Block: 320
Lot: 18.01
Street Address: 575 Mountain Avenue
Year: 2018

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 4,403,700	Direct	\$4,403,700
Impvts	<u>\$ 8,861,700</u>	Appeal	<u>\$2,229,000</u>
Total	\$13,265,400		\$6,632,700

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. The taxpayer waives application of the provisions of *N.J.S.A. 54:51A-8* (Freeze Act).

5. 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.

6. The parties agree that the property's 2019 total assessment shall be \$9,675,100 and further agree that either party shall have the right to file a tax appeal for the 2019 tax year to obtain a judgment to implement, enforce and/or confirm the \$9,675,100 assessment agreed upon herein. This agreement shall be binding upon any assignees, tenants and successors in interest with regard to the subject property. The parties understand that the provisions set forth in this paragraph 6 regarding the 2019 assessment shall not be reflected in the Tax Court Judgment.

7. All refunds as a result of the settlement set forth herein are to be made payable to the taxpayer and forwarded to Zipp & Tannenbaum, LLC, 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, LLC



BY:

PETER J. ZIPP, ESQ.
Attorney for Plaintiff

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

BY:

SANDRA BELLI, ESQ.
Attorney for Defendant

Dated: