

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2019-263

Council Meeting Date: 12-16-2019

Date Adopted: 12-16-2019

TITLE: DIANE HARVEY V. BOROUGH OF NEW PROVIDENCE BLOCK 76,
LOT 21; 118 COMMONWEALTH AVENUE DOCKET NO. 010434-2019

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

WHEREAS, Diane Harvey (“Taxpayer”), the owner of Block 76, Lot 21 on the Borough of New Providence’s Tax Assessment Maps, commonly known as 118 Commonwealth Avenue (“Property”), filed an appeal of her 2019 tax assessment in the Tax Court of New Jersey, Docket No.010434-2019.

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 76, Lot 21 was assessed at \$329,600 for Tax Year 2019; 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 76, Lot 21; and

WHEREAS, the 2019 total tax assessment, based upon said reduction, will be \$310,800 instead of \$329,600 for Block 76, Lot 21; and

WHEREAS, the parties have agreed that the Freeze Act shall apply to the assessment for tax year 2020; and

WHEREAS, the parties have agreed that the total tax assessments for the 2021 and 2022 Tax Years for the property shall be set by the Borough Tax Assessor each year at a total tax assessment of \$310,800 “on the books,” if, prior to the Tax Assessor closing the books, for each of said tax years, there has been no “change in value” of the property [as that phrase has been defined and interpreted by the Courts pursuant to N.J.S.A. 54:51A-8 (Freeze Act), such as by way of example, assessable additions or improvements to, damage to, demolition of, and/or casualty to the subject assessable

property]; and there is no sale of the property then pending for more than the aforesaid proposed total tax assessment divided by the common level ratio of assessed to true value (County Equalized Value) for any of said years; and there has been no district-wide reassessment or revaluation. Taxpayer, its successors, assigns, and any/or any other parties in interest shall not contest the assessments for Tax Years 2021 and 2022 unless it is to enforce the settlement. Any judgments entered to enforce the agreed upon 2021 and 2022 assessments shall not constitute a basis for application of the Freeze Act for any future years.

WHEREAS, Taxpayer has agreed that any refunds due as a result of this settlement shall be without interest provided that the Stipulation of Settlement is filed with the Tax Court within 60 days hereof and 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 \$310,800 total tax assessment for the 2019 Tax Year for Block 76, Lot 21, 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 Diane Harvey ("Taxpayer"), Docket No. 010434-2019, which reduces the tax assessment on Block 76, Lot 21 from \$329,600 to a total tax assessment of \$310,800 for the 2019 Tax Year; which provides that any refunds due as a result of this settlement shall be without interest provided that the Stipulation of Settlement is filed with the Tax Court within 60 days hereof and the refund is paid within sixty (60) days of the date of entry of the Tax Court Judgment; which provides that the Freeze Act shall apply to the assessment for Tax Year 2020; which provides that the total tax assessments for the 2021 and 2022 Tax Years for the property shall be set by the Borough Tax Assessor each year at a total tax assessment of \$310,800 "on the books," if, prior to the Tax Assessor closing the books, for each of said tax years, there has been no "change in value" of

the property [as that phrase has been defined and interpreted by the Courts pursuant to N.J.S.A. 54:51A-8 (Freeze Act), such as by way of example, assessable additions or improvements to, damage to, demolition of, and/or casualty to the subject assessable property]; and there is no sale of the property then pending for more than the aforesaid proposed total tax assessment divided by the common level ratio of assessed to true value (County Equalized Value) for any of said years; and there has been no district-wide reassessment or revaluation; and which provides that Taxpayer, its successors, assigns, and/or any other parties in interest shall not contest the assessments for Tax Years 2021 and 2022 unless it is to enforce the settlement; and which further provides that any judgments entered to enforce the agreed upon 2021 and 2022 assessments shall not constitute a basis for application of the Freeze Act for any future years.

3. 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 December, 2019.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
CUMISKEY	X			
DESARNO	X			
GENNARO	X			
GEOFFROY	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 December, 2019.

Wendi B. Barry, Borough Clerk

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TAX COURT OF NEW JERSEY

HARVEY, DIANE

Docket Nos. 010434-19

Plaintiff,

-v-

NEW PROVIDENCE BOROUGH

Defendant

: STIPULATION OF SETTLEMENT
(Without Affidavit)
: Hon. Michael J. Gilmore, 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: 76 Lot: 21
Year: 2019
Street Address: 118 Commonwealth Ave.

	<u>Original</u> <u>Assessment</u>	<u>County Board</u> <u>Judgment</u>	<u>Requested Tax</u> <u>Court Judgment</u>
Land	\$ 103,200	\$103,200	\$ 103,200
Improvements	\$ 226,400	\$226,400	\$ 207,600
TOTAL	\$ 329,600	\$329,600	\$ 310,800

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 forwarded to the Tax Court of New Jersey within 60 days hereof and provided the refund is received 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 "Irwin & Heinze, P.A. Attorney Trust Account F.B.O. Harvey, Diane, 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 2020. The parties agree that there has been no change in value or municipal-wide revaluation or reassessment adopted for the tax year 2020, 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). Parties shall not contest tax year 2020 unless it to enforce said settlement.

8. The parties acknowledge that the Tax Court may not have jurisdiction as to the following paragraph. However the following terms are an integral part of the settlement of the parties, each party having entered into this Stipulation in part in consideration of the following terms.

9. The parties agree that the total tax assessments for the 2021 and 2022 tax years for the property will be set by the Borough Tax Assessor each year at a total tax assessment of \$310,800 "on the books," if, prior to the Tax Assessor closing the books, for each of said tax years, there has been no "change in value" of the property [as that phrase has been defined and interpreted by the Courts pursuant to N.J.S.A. 54:51A-8 (Freeze Act), such as, by way of example, assessable additions or improvements to, damage to, demolition of, and/or casualty to the subject assessable property]; and there is no sale of the property then pending for more than the aforesaid proposed total tax assessment divided by the common level ratio of assessed to true value (County Equalized Value) for any of said years; and there has been no district-wide reassessment or revaluation. Plaintiff, its successors, assigns, and/or any other parties in interest shall not contest the assessments for tax years 2021 and 2022 unless it is to enforce the settlement. The parties agree and acknowledge that any judgments entered to enforce the agreed upon 2021 and 2022 assessments shall not constitute a basis for application of the Freeze Act for any future years. Plaintiff agrees that it will affirmatively notify any successors and/or assigns of the terms of this Stipulation of Settlement.

10. The provisions of paragraphs 8 and 9 shall survive Judgment even if not included on the Judgment issued by the Tax Court of New Jersey.



PABLO M. KIM
Attorney for Plaintiff

Dated: October 31, 2019

SANDRA BELLI
Attorney for Defendant

Dated: