

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

Council Meeting Date:

Date Adopted:

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

Councilperson\_\_\_\_\_ submitted the following resolution, which was duly  
seconded by Councilperson \_\_\_\_\_.

**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.