

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 20-158**

**RESOLUTION AUTHORIZING TAX APPEAL SETTLEMENT REGARDING
BANK OF AMERICA AND PARK STREET REAL ESTATE CO., LLC FOR
BLOCK 104, LOTS 14 AND 15, A/K/A 170 BROAD STREET AND 20 LEROY PLACE**

WHEREAS, from 2012 to 2019, Bank of America and Park Street Real Estate Co., L.L.C. (“Taxpayer”), filed appeals with the Tax Court of the State of New Jersey challenging the tax assessments for the properties known as Block 104, Lot 14 and Block 104, Lot 15, commonly known as 170 Broad Street and 20 Leroy Place (the “Properties”) within the Borough of Red Bank (the “Borough”); and

WHEREAS, given the 2011 sale of the Properties for \$5,000,000, the Borough has vigorously defended the Taxpayer’s appeals to the Tax Court from 2012 to the present; and

WHEREAS, approximately one-third of the Properties consist of a parking lot and bank premises, the remainder of the Properties consist of lower-rated office space and basement space; and

WHEREAS, the Properties’ unique layout and the appropriate valuation of the lower-rated office space and basement have been disputed issues during the pendency of Taxpayer’s appeals to the Tax Court from 2012 to the present; and

WHEREAS, given the Borough’s vigorously defending the Taxpayer’s appeals in light of the 2011 \$5,000,000 sale of the Properties, the Borough previously and successfully compelled the Taxpayer to withdraw its appeals for 2012, 2013, 2014, 2015, and 2016; and

WHEREAS, technological changes have occurred between 2012 and the present in the banking industry, which theoretically devalue back-office space and lend support to the Taxpayer’s pending appeals for more recent tax years given the Properties’ main tenant; and

WHEREAS, Taxpayer argues that a downswing in the real estate market for office space, particularly lower-rated office space, also lends support to its claim that the 2011 sales transaction is no longer indicative of the Properties’ value; and

WHEREAS, the upswing in the Borough’s real estate market between 2012 and the present lend support to the Borough’s defenses in the Taxpayer’s pending appeals that the 2011 sales transaction remains lower than the Properties’ value in the ensuing years; and

WHEREAS, the longer duration of time elapsed between the 2011 subject sale and the present has, over time, eroded the Borough’s position that said sale is indicative of the Properties’ present value; and

WHEREAS, given the Taxpayer’s prior withdrawal of appeals for 2012, 2013, 2014, 2015, and 2016, and the increasingly arguable disputed issues in the Taxpayer’s appeals for 2017, 2018, 2019, and forward, the Borough’s Governing Body find it prudent to resolve the Taxpayer’s remaining pending appeals at this time to avoid a continually accruing and arguable liability, as well as concluding nearly nine years of litigation with Taxpayer over the same issues; and

WHEREAS, the Borough’s Tax Assessor and Tax Appeal Attorney have advised the Governing Body that they, along with the Borough’s valuation expert, have carefully considered the appeal and upon reviewing all the facts and based upon appropriate adjustments of fair market value that they recommend settlement providing for the settlement of the aforementioned appeals as follows:

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
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Tax Year 2017

170 Broad St., B104, L14

Land	\$2,318,500.00	N/A - Direct Appeal	Withdraw
Improvements	<u>\$2,657,400.00</u>	"	Withdraw
Total	\$4,975,900.00	"	Withdraw

20 Leroy Pl., B104, L15 (Parking Lot)

Land	\$224,400.00	N/A - Direct Appeal	Withdraw
Improvements	<u>\$15,300.00</u>	"	Withdraw
Total	\$239,700.00	"	Withdraw

Tax Year 2018

170 Broad St., B104, L14

Land	\$2,318,500.00	N/A - Direct Appeal	\$2,318,500.00
Improvements	<u>\$2,962,400.00</u>	"	<u>\$2,411,700.00</u>
Total	\$5,280,900.00	"	\$4,730,200.00

20 Leroy Pl., B104, L15 (Parking Lot)

Land	\$254,400.00	N/A - Direct Appeal	\$254,400.00
Improvements	<u>\$15,400.00</u>	"	<u>\$15,400.00</u>
Total	\$269,800.00	"	\$269,800.00

Tax Year 2019

170 Broad St., B104, L14

Land	\$2,318,500.00	N/A - Direct Appeal	\$2,318,500.00
Improvements	<u>\$3,140,300.00</u>	"	<u>\$2,011,100.00</u>
Total	\$5,458,800.00	"	\$4,329,600.00

Tax Year 2019 (con't)

20 Leroy Pl., B104, L15 (Parking Lot)

Land	\$254,400.00	N/A - Direct Appeal	\$254,400.00
Improvements	<u>\$16,000.00</u>	"	<u>\$16,000.00</u>
Total	\$270,400.00	"	\$270,400.00

Tax Year 2020

170 Broad St., B104, L14

Land	\$2,318,500.00	N/A - Direct Appeal	\$2,318,500.00
Improvements	<u>\$3,201,200.00</u>	"	<u>\$1,410,600.00</u>

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Total	\$5,519,700.00	"	\$3,729,100.00

20 Leroy Pl., B104, L15 (Parking Lot)

Land	\$254,400.00	N/A - Direct Appeal	\$254,400.00
Improvements	<u>\$16,500.00</u>	"	<u>\$16,500.00</u>
Total	\$270,900.00	"	\$270,900.00

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Red Bank that the recommended settlement of the above-mentioned Tax Court appeals is hereby authorized and approved.

BE IT FURTHER RESOLVED that the attorney is authorized and directed to take appropriate steps to implement this resolution.

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this resolution to the Tax Assessor; to the Tax Collector and to Bank of America and Park Street Real Estate Co., L.L.C., c/o Bank of America (Tenant Taxpayer), c/o James T. Ryan, III, Esq., Stavitsky & Associates, L.L.C., 350 Passaic Ave., Fairfield, N.J. 07004, attorney for the property owner; and to the Borough Attorney.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin	Motion	X			
Councilwoman Triggiano		X			
Councilman Ballard			X		
Councilman Yngstrom	Second	X			
Councilman Zipprich				X	
Councilwoman Horgan		X			

Dated: June 17, 2020

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on June 17, 2020.

Pamela Borghi

Pamela Borghi, Municipal Clerk