

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 16-132

**RESOLUTION AUTHORIZING TAX APPEAL SETTLEMENT REGARDING
A.C.S. MONMOUTH ASSOCIATES, LLC, BLOCK 42, LOT 5, BLOCK 42, LOT 6 and BLOCK
33, LOT 13, 135-137, 133 and 138 MONMOUTH STREET**

Councilman Taylor offered the following resolution and moved its adoption:

WHEREAS, A.C.S. Monmouth Associates, LLC appealed to the Tax Court of the State of New Jersey under Docket Nos. 007983-2012, 002224-2013, 003649-2014 and 001612-2015 pertaining to the tax assessments for the 2012, 2013, 2014 and 2015 tax years for the property designated on the municipal tax records as Block 42, Lots 5 and 6, and Block 33, Lot 13

WHEREAS, Mary Lynn Kealy is the managing member of A.S.C. Monmouth Associates, LLC; and

WHEREAS, the Assessor and the 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 on the terms as set forth in the attached proposed Stipulation of Settlement; and

WHEREAS, this settlement will result in refunds/credits totaling **\$17,441.18**

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 appeal is hereby authorized and approved.

BE IT FURTHER RESOLVED that the attorney of record for the Borough on these appeals 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 A.S.C. Monmouth Associates, LLC, c/o Thomas J. Denitzio, Jr. Esq., Greenbaum, Rowe, Smith & Davis, LLP, Metro Corporate Campus One, 99 Wood Avenue South, Iselin, New Jersey, 08830, attorneys for the property owner; and to Daniel J. O'Hern, Jr., as attorney of record for the Borough of Red Bank.

Seconded by Councilwoman Horgan and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilwoman Burnham	(x)	()	()	()
Councilman Zipprich	(x)	()	()	()
Councilwoman Horgan	(x)	()	()	()
Councilwoman Schwabenbauer	(x)	()	()	()
Councilman Taylor	(x)	()	()	()
Councilman Whelan	(x)	()	()	()

Dated: May 11, 2016

Thomas J. Denitzio, Jr. (ID #009981975)
GREENBAUM, ROWE, SMITH & DAVIS, LLP
Metro Corporate Campus One
99 Wood Avenue South
Iselin, New Jersey 08830
(732) 549-5600
Attorneys for Plaintiff

A.C.S. MONMOUTH ASSOC., L.L.C.,
v.
BOROUGH OF RED BANK,
Defendant.

TAX COURT OF NEW JERSEY
DOCKET NOS. 007983-2012
002224-2013
003649-2014
001612-2015

STIPULATION OF SETTLEMENT

1. With respect to Tax Year 2012, Docket No. 007983-2012, the Plaintiff's Complaint is hereby withdrawn and the Defendant's Counterclaim, if any, is also withdrawn. The parties request that the Court enter judgment accordingly.

2. It is hereby stipulated and agreed that the assessment of the following property be adjusted and a judgment be entered as follows:

A. Year: 2013

(i) Block: 42, Lot: 5; 135-137 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 335,000	Direct Appeal	\$ 335,000
Improvements	<u>1,140,400</u>		<u>940,400</u>
Total	<u>\$ 1,475,400</u>		<u>\$ 1,275,400</u>

(ii) Block: 42, Lot: 6; 133 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 230,600	Direct Appeal	\$ 230,600
Improvements	<u>67,700</u>		<u>67,700</u>
Total	<u>\$ 298,300</u>		<u>\$ 298,300</u>

(iii) Block: 33, Lot: 13; 138 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 116,900	Direct Appeal	\$ 116,900
Improvements	<u>9,400</u>		<u>9,400</u>
Total	<u>\$ 126,300</u>		<u>\$ 126,300</u>

B. Year: 2014

(i) Block: 42, Lot: 5; 135-137 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 335,000	Direct Appeal	\$ 335,000
Improvements	<u>1,140,400</u>		<u>840,400</u>
Total	<u>\$ 1,475,400</u>		<u>\$ 1,175,400</u>

(ii) Block: 42, Lot: 6; 133 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 230,600	Direct Appeal	\$ 230,600
Improvements	<u>67,700</u>		<u>67,700</u>
Total	<u>\$ 298,300</u>		<u>\$ 298,300</u>

(iii) Block: 33, Lot: 13; 138 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 116,900	Direct Appeal	\$ 116,900
Improvements	<u>9,400</u>		<u>9,400</u>
Total	<u>\$ 126,300</u>		<u>\$ 126,300</u>

C. Year: 2015

(i) Block: 42, Lot: 5; 135-137 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 335,000	Direct Appeal	\$ 335,000
Improvements	<u>1,140,400</u>		<u>785,200</u>
Total	<u>\$ 1,475,400</u>		<u>\$ 1,120,200</u>

(ii) Block: 42, Lot: 6; 133 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 196,000	Direct Appeal	\$ 196,000
Improvements	<u>57,500</u>		<u>57,500</u>
Total	<u>\$ 253,500</u>		<u>\$ 253,500</u>

(iii) Block: 33, Lot: 13; 138 Monmouth St.

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Requested Tax Court Judgment</u>
Land	\$ 116,900	Direct Appeal	\$ 116,900
Improvements	<u>9,400</u>		<u>9,400</u>
Total	<u>\$ 126,300</u>		<u>\$ 126,300</u>

3. The undersigned have made such examination of the value and proper assessment of the properties and have obtained such appraisals, analysis and information with respect to the valuation and assessment of the properties as they deem necessary and appropriate for the purpose of enabling them to enter into this 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.

4. 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 properties consistent with assessing practices generally applicable in the taxing district as required by law.

5. Upon entry of judgment by the Tax Court, Defendant shall pay to Plaintiff's attorneys by check payable to "Greenbaum, Rowe, Smith & Davis LLP Trust Account" the entire amount of taxes overpaid by plaintiff in tax years 2013, 2014 and 2015.

6. No interest is to be paid on the refund of overpaid taxes, provided, however, Plaintiff's counsel receives the refund check within 60 days of the entry of judgment.

Greenbaum, Rowe, Smith & Davis LLP
Attorneys for Plaintiff

Byrnes O'Hern & Heugle LLC
Attorneys for Defendant

By: _____
Thomas J. Denitzio, Jr., Esq.

By: _____
Daniel J. O'Hern, Jr., Esq.

Dated: March _____, 2016

Dated: March _____, 2016