



Lorelei Case
Assistant Superintendent for Business
9 Thompson Street
Port Jervis, New York 12771

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To: Ruth Zuclich
Board of Education

From: Lorelei Case *LC*

Date: August 28, 2017

Subject: ETON – Tax Consent Judgment

The ETON tax assessment reduction judgment has been issued.

A resolution to accept the judgment and refund past taxes paid is on the September 5, 2017 agenda.

The settlement reduction in assessments were \$68,000 in 2013 and 2014, and \$64,000 in 2015, 2016 and 2017.

The refund to be issued is \$18,669.29, plus any additional penalties and interest earned.

LC:mo

cc: Karen Howard, Tax Collector



Thomas Scapoli
Associate
tscapoli@ingermansmith.com

Reply to Harrison Office

Via regular mail and e-mail

RECEIVED

AUG 24 2017

BUSINESS OFFICE

August 14, 2017

Ms. Lorelei Case
Assistant Superintendent for Business
Port Jervis City School District
9 Thompson Street
Port Jervis, NY 12771

Re: Eton Centers Co. LLC v. City of Port Jervis and Port Jervis CSD

Dear Ms. Case:

We are in receipt of a consent judgment in connection with the above referenced matter. The consent judgment is the result of settlement discussions between the Attorney for the Petitioner and the City Attorney. The parties reached an agreement before our office was able to participate in the discussions. Nevertheless, the District still has the right to either agree or disagree with the settlement.

The subject property consists of 1.7 acres of land, improved with a 21,560 square foot building that was formerly a supermarket. There are tax proceedings pending from 2013 to the present. The property was assessed at \$298,000 for the years at issue, indicating market values ranging between \$662,222 and \$709,524.

The Petitioner was seeking substantial refunds for the property. The Petitioner prepared a preliminary cost estimate based upon the income and expense figures which resulted in a market value of \$380,000, which translates to an assessment of \$171,000. If the Court were to accept such values at a trial, the District's refund exposure would be approximately \$325,429, plus interest, not including the 2017 taxes. While the City did not commission an appraisal, the City Assessor examined the current lease information for the property as well as several other comparable commercial properties near the subject.

The Petitioner and the City negotiated a tentative settlement establishing the property's assessment at \$220,000 for 2013 and 2014 and \$234,000 for the remaining years, reflecting market values from approximately \$489,000 to \$557,000. The City Attorney advised us that this settlement is within the Assessor's estimate of the market value. The District's refund under the settlement is \$18,166.31, not including the 2017-2018 taxes, which have not yet been collected.

The proposed agreement further provides that interest shall be waived if paid within 60 days from the date of service of the signed consent judgment upon the District.

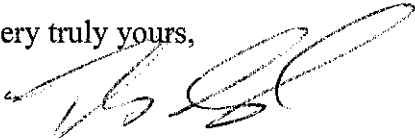
The resolution has been tentatively approved by the Petitioner and the City Attorney. A copy of a Board resolution approving the proposed settlement is attached.

If the Board elects not to accept the settlement, it may attempt to pursue further negotiations with the Petitioner, or it must proceed to trial. A trial appraisal will likely cost about \$10,000 to \$15,000. A trial would last two days and would likely cost about \$15,000 including all pre-trial trial preparation, the trial, and post hearing briefs.

Upon your request, we shall be available to meet with the Board to discuss the proposed settlement or any other questions pertaining to this property.

If you should have any questions, please feel free to contact our office.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Scapoli', written over a light blue horizontal line.

THOMAS SCAPOLI

TS/kd

Enc.

RESOLUTION

WHEREAS, the Port Jervis City School District is a respondent in certain tax certiorari proceedings pertaining to property identified on the tax roll as Parcel 19-2-18 for tax years 2013 through 2017; and

WHEREAS, the parties have negotiated a tentative resolution of the proceedings, as set forth in the consent judgment attached hereto; and

WHEREAS, the Board has determined that it is in the best interests of the School District to resolve the proceeding in accordance with the Consent Judgment without further litigation;

NOW, BASED UPON THE FORGOING, IT IS HEREBY RESOLVED that the Board hereby approves the settlement of the tax proceedings as set forth in the Consent Judgment;

AND BE IT FURTHER RESOLVED that Ingerman Smith, LLP is authorized to execute the consent judgment attached hereto, and any other relevant settlement papers necessary to effectuate the settlement;

AND BE IT FURTHER RESOLVED, that the Assistant Superintendent for Business shall be authorized to issue a refund payment in accordance with the Consent Judgment.