

TOWN OF WEST SENECA



JOHN FENZ
TOWN ATTORNEY
jfenz@twsny.org

TOWN SUPERVISOR
SHEILA M. MEEGAN
TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY, JR.

TO: The Honorable Town Board

FROM: John J. Fenz, Esq.
Town Attorney

DATE: May 28, 2015

RE: In the Matter of the Application of 50 Ransier, LLC. v.
Town of West Seneca
Request for Authority to Execute Settlement

Kindly approve settlement of the above-referenced matter and authorize the Town Attorney to execute the attached Consent Order to conclude the real property tax assessment challenge litigation between 50 Ransier, LLC and the Town of West Seneca.

This matter involves an application for a reduction of an assessment by an owner of commercial property in the Town, located at 50 Ransier Drive and 131 North America Drive. The Town's initial appraised value of the property was \$590,000.00 and following conversations with opposing counsel, settlement was negotiated setting value at: \$590,000.00 for 2013-2014; \$590,000 for 2014-2015 and \$559,000 for the following four (4) years. 50 Ransier, LLC is not entitled to overpayment refunds.

Successful defense of this litigation has likely maintained thousands of dollars in real property tax revenue for the Town.

JUN 01 2015

At a Special Term of the Supreme Court, Erie County,
held at 25 Delaware Avenue, Buffalo, New York, on the
_____ day of _____, 2015.

PRESENT: HON. SHEILA A. DITULLIO, A.J.S.C.
Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER
ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

50 RANSIER, LLC

Petitioner,

v.

TOWN OF WEST SENECA

Respondents,

CONSENT ORDER

Index No.: 808117/14
002250/13
002249/13

AND

WEST SENECA CENTRAL SCHOOL DISTRICT

Intervenor.

FOR REVIEW OF THE 2013-2014 & 2014-2015 TAX ASSESSMENT OF CERTAIN
REAL PROPERTY IN THE SAID TOWN OF WEST SENECA, NEW YORK

The above-entitled special proceedings involving real property tax certiorari for the premises
owned by Petitioner in the Town of West Seneca, New York, known as:

50 Ransier Drive S.B.L. #135.09-1-4

131 North America Drive S.B.L. #135.09-1-1, in West Seneca, New York for the

tax years 2013-2014 and 2014-2015 having progressed for trial, and negotiations for settlement

having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of West Seneca, the Attorney for the West Seneca Central School District, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of West Seneca provides the basis for the imposition of ad valorem taxes assessed by the County of Erie, the Town of West Seneca and the West Seneca Central School District, it is hereby

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2013-2014 for the premises be set as follows:

50 Ransier Drive	S.B.L. #135.09-1-4	\$170,658 (\$383,500 FMV)
131 North America Drive	S.B.L. #135.09-1-1	\$ 91,892 (\$206,500 FMV), and

it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2014-2015 for the premises be set as follows:

50 Ransier Drive	S.B.L. #135.09-1-4	\$164,520 (\$383,500 FMV)
131 North America Drive	S.B.L. #135.09-1-1	\$ 88,590 (\$206,500 FMV), and

it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2015-2016 for the premises be set as follows:

50 Ransier Drive	S.B.L. #135.09-1-4	\$363,350 (FMV)
131 North America Drive	S.B.L. #135.09-1-1	\$195,650 (FMV), and

it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2016-2017 for the premises be set as follows:

50 Ransier Drive S.B.L. #135.09-1-4 \$363,350 (FMV)
131 North America Drive S.B.L. #135.09-1-1 \$195,650 (FMV), and

it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2017-2018 for the premises be set as follows:

50 Ransier Drive S.B.L. #135.09-1-4 \$363,350 (FMV)
131 North America Drive S.B.L. #135.09-1-1 \$195,650 (FMV), and

it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2018-2019 for the premises be set as follows:

50 Ransier Drive S.B.L. #135.09-1-4 \$363,350 (FMV)
131 North America Drive S.B.L. #135.09-1-1 \$195,650 (FMV), and

it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply through tax year 2018-2019 without regard to revaluation or update in the interval, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that in the event that the assessment is increased for any stated year at a level higher than provided herein when there has been no assessable addition or improvement to the property, Petitioner retains the right to reinstate and reinstitute its Article 7 proceedings herein settled with respect to that parcel only, and Respondents waive any objection based upon statute of limitations grounds, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of Erie County, the Town of West Seneca, West Seneca Central School District, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45 days by official check payable to the order of Wolfgang & Weinmann, LLP as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, with the exception that Petitioner waives all 2013-2014 property tax refunds, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that parties shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the parties, and the

full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

HON. SHEILA A. DITULLIO, A.J.S.C.

GRANTED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

FOR PETITIONER
50 RANSIER, LLC

By: _____
JORGE S. DE ROSAS, ESQ.
Attorney for Petitioner

Date: _____

FOR RESPONDENT
TOWN OF WEST SENECA

By: _____
RICHARD H. COLE, ESQ.
Attorney for Respondent

Date: _____

FOR PETITIONER
50 RANSIER, LLC

By: _____
GERALD P. GORMAN
As Agent

Date: _____

FOR RESPONDENT TOWN OF
WEST SENECA

By: _____
JOHN J. FENZ, ESQ.
Attorney for Town of West Seneca

Date: _____

FOR INTERVENOR WEST SENECA
CENTRAL SCHOOL DISTRICT

By: _____
J. RYAN WHITE, ESQ.
Attorney for Intervenor

Date: _____

FOR INTERVENOR WEST SENECA
CENTRAL SCHOOL DISTRICT

By: _____
JANICE LEWANDOWSKI
Asst. Mgr., Financial and Computer Services

Date: _____