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TOWN OF WEST SENECA

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 18, 2017

RE: Application of Casciano v. Town of West Seneca
Request for Authority to Execute Consent Order

Kindly approve and authorize execution of the Consent Order to resolve the real property tax assessment challenge of Michael Casciano against the Town of West Seneca.

This is a matter involves an application of an owner of residential property located at 246 Union Road to have his assessment reduced. After deliberation with a third party appraiser, counsel and the Town Assessor, it has been determined that it is in the best economic interest of the Town to resolve this litigation pursuant to the terms of the attached consent order.

At a Special Term of the Supreme Court, Erie County,
held at 25 Delaware Avenue, Buffalo, New York, on the
_____ day of _____, 2017.

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

MICHAEL A. CASCIANO

Petitioner,

v.

CONSENT ORDER

TOWN OF WEST SENECA

Index No.: 808841/2015
808192/2016

Respondent,

AND

WEST SENECA CENTRAL SCHOOL DISTRICT

Intervenor.

FOR REVIEW OF THE 2015-2016 & 2016-2017 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 246 Union Road in West Seneca, New York, S.B.L. #152.08-1-21.12 for the tax years 2015-2016 and 2016-2017 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assessment challenges for the tax years 2015-2016 and 2016-2017 for the premises at 246 Union Road be discontinued and withdrawn without costs and allowances to either party as against the other, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2017-2018 for the premises at 246 Union Road be set at \$200,000 assessed value, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2018-2019 for the premises at 246 Union Road be set at \$200,000 assessed value, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2019-2020 for the premises at 246 Union Road be set at \$200,000 assessed value, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2020-2021 for the premises at 246 Union Road be set at \$200,000 assessed value, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2021-2022 for the premises at 246 Union Road be set at \$200,000 assessed value, and it is further

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

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall not protest any assessment or commence any proceeding to review any assessment with regard to the real property described herein with respect to the assessment completed for the taxable status dates March 1, 2017 (2017-2018), March 1, 2018 (2018-2019), March 1, 2019 (2019-2020), March 1, 2020 (2020-2021) and March 1, 2021 (2021-2022) so long as the assessed value of the property does not exceed the amount as set forth herein, 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, or in the event that any such tax payment has not been paid, issue corrected tax bills which reflect the proper reduced assessment for the property, with a copy of corrected tax bills sent to the attorneys for Petitioner, said corrected tax bills to be paid without interest or penalty if paid within 45 days of receipt of said corrected bills, 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 Petitioner 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
MICHAEL A. CASCIANO

FOR RESPONDENT
TOWN OF WEST SENECA

By: _____
ANDREW Z. LEPORE, ESQ.
Attorney for Petitioner

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

Date: _____

Date: _____

FOR PETITIONER
MICHAEL A. CASCIANO

FOR RESPONDENT
TOWN OF WEST SENECA

By: _____
MICHAEL A. CASCIANO

By: _____
JOHN J. FENZ, ESQ.
Town Attorney

Date: _____

Date: _____

FOR INTERVENOR
WEST SENECA CENTRAL SCHOOL
DISTRICT

FOR INTERVENOR
WEST SENECA CENTRAL SCHOOL
DISTRICT

By: _____
JANICE LEWANDOWSKI

By: _____
MEGHANN N. ROEHL
Attorney for Intervenor

Date: _____

Date: _____