

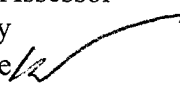
THE VINCELETTE LAW FIRM
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LEGALLY PRIVILEGED AND CONFIDENTIAL

To: Peter Barber, Supervisor
 James Melita, Esq.
 Heather Weinhold, Assessor
 Jessica Montgomery
 From: Daniel G. Vincelette 
 Re: City of Watervliet v Town of Guilderland, Index Nos.: 904624-19, 904796-20
 Date: April 18, 2022

A resolution has been submitted to the Town Board approving settlement of these proceedings. We are recommending this settlement based upon the probability of success at trial and the cost-benefit to the Town and School District.

The City of Watervliet is challenging the 2019, 2020 and 2021 assessed values of the three parcels that comprise the reservoir property. Parcel No. 26.00-4-3, which includes the 688 acres of the reservoir and the majority of the dam, powerhouse and improvements, is assessed at \$17,530,000. Parcel Nos. 26.00-4-3./1 and 26.00-4-3./2 contain the water transmission line that passes through the town from the reservoir and are assessed at \$42,729 and \$120,358, respectively. The parcels are split to reflect the two school districts (Guilderland and Mohonasen) that the line passes through. Prior to the 2019 revaluation, the assessment of the reservoir was \$2.7 million.

City of Watervliet filed an appraisal report prepared by John O'Neill of DeL. Palmer and James Besha of Albany Engineering Co. that concluded a value of \$4,363,621 and \$4,299,155 for the 2019 and 2020 assessments.

Prior to the trial, the City made a settlement proposal in which the 2019 assessment of the main parcel would be reduced to \$6 million; the 2020 assessment would be reduced to \$5 million; and the 2021 assessment would be reduced to \$4 million. The proceedings would be discontinued as to the water transmission line assessments, and the refunds would be made waiving statutory interest and costs.

On March 30, 2022, I proceeded to trial in the tax certiorari proceeding challenging the assessment of the City's reservoir in the Town. Mr. Besha was effective in his testimony and there did not appear to be any "fatal" deficiencies with Petitioner's appraisal report at trial. Previously, the Town Board in Executive Session indicated support for the settlement; the Guilderland Central School District passed a resolution accepting the settlement the night before the trial.

It is our recommendation that the Board pass the resolution approving the settlement as it is in the best interests of the Town and is a cost-effective resolution to these proceedings. It is highly probable that the Court will rule in favor of the City, and analysis performed by the Assessor and this office indicates that the assessment cannot be sustained at trial. The settlement has minimal financial impact on the Town, as the difference in refund from the Town between a judgment adopting the City's values and the settlement is about \$3,400. It is better to resolve this matter now without interest than to wait more than a year for a result that would probably value the 2019 and 2020 assessments of the property lower than the settlement amounts.

If you have any questions, please do not hesitate to contact me.

**STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY**

In the Matter of the Application of the
CITY OF WATERVLIET,

Petitioner,

-against-

**BOARD OF ASSESSMENT REVIEW AND ASSESSOR
OF THE TOWN OF GUILDERLAND AND THE TOWN
OF GUILDERLAND,**

Respondents.

For the review of the assessment for the years 2019, 2020 and
2021 of certain real property in the said **TOWN OF
GUILDERLAND.**

**STIPULATION & ORDER
OF SETTLEMENT**

Index No. 904624-19

RJI No. 01-19-132559

Index No. 904796-20

RJI No. 01-20-135473

Index No. 906132-21

RJI No. 01-21-138690

Assigned Judge:
Hon. Margaret T. Walsh,
J.S.C.

The above named Petitioner having duly brought these Real Property Tax Law ("RPTL") Article 7 proceedings to review the tax assessments made against premises owned by the Petitioner City of Watervliet, located at Western Turnpike (SBL No. 26.00-4-3) in the Town of Guilderland, County of Albany, State of New York (the "Reservoir Parcel"), Water Transmission (SBL No. 26.00-4-3./1) in the Town of Guilderland, County of Albany, State of New York ("GCSD Transmission Line 3./1") and Water Transmission Line (SBL No. 26.00-4-3./2) in the Town of Guilderland, County of Albany, State of New York ("Mohonasen CSD Transmission Line 3./2") (collectively GCSD Transmission Line 3./1 and Mohonasen CSD Transmission Line 3./2 are hereinafter referred to as the "Discontinued Parcels"), for the assessment rolls 2019, 2020 and 2021 and being the real property mentioned and more fully described in the respective petitions made and filed herein, and issue having been duly joined herein, and the Petitioner having appeared by Goldman Attorneys PLLC, Paul J. Goldman and the Respondents Town of Guilderland having appeared by The Vincelette Law Firm, Daniel G. Vincelette, Esq., and the parties having the trial of the proceedings on March 30, 2022 and having paused the trial on the merits to enter into a

settlement of the proceedings in accordance with this Stipulation & Order of Settlement;

NOW, on motion of Goldman Attorneys PLLC, attorneys for Petitioner, it is hereby,

1. **ORDERED, ADJUDGED and DECREED**, that the 2019 assessment of the Reservoir Parcel in the Town of Guilderland, County of Albany, State of New York on the 2019 assessment roll of the Town of Guilderland shall be reduced and corrected as follows:

Property	Original Assessed Value	Corrected Assessed Value	Reduction in Assessed Value
Western Turnpike (SBL No. 26.00-4-3)	\$17,530,000	\$6,000,000	\$11,530,000

; and it is further,

2. **ORDERED, ADJUDGED and DECREED**, that the 2020 assessment of the Reservoir Parcel in the Town of Guilderland, County of Albany, State of New York on the 2020 assessment roll of the Town of Guilderland shall be reduced and corrected as follows:

Property	Original Assessed Value	Corrected Assessed Value	Reduction in Assessed Value
Western Turnpike (SBL No. 26.00-4-3)	\$17,530,000	\$5,000,000	\$12,530,000

; and it is further,

3. **ORDERED, ADJUDGED and DECREED**, that the 2021 assessment of the Reservoir Parcel in the Town of Guilderland, County of Albany, State of New York on the 2021 assessment roll of the Town of Guilderland shall be reduced and corrected as follows:

Property	Original Assessed Value	Corrected Assessed Value	Reduction in Assessed Value
Western Turnpike (SBL No. 26.00-4-3)	\$17,530,000	\$4,000,000	\$13,530,000

; and it is further,

4. **ORDERED, ADJUDGED and DECREED**, that the 2019, 2020 and 2021 assessments of the Discontinued Parcels shall remain unchanged; and it is further,

5. **ORDERED, ADJUDGED and DECREED**, that the County of Albany and/or Town of Guilderland (the "Town") and/or the County of Albany (the "County") shall refund all excess Town, Town Highway, other Town taxes and special district charges, including all fire district refunds of excess taxes due from the Guilderland Fire District, the Guilderland Center Fire District, Fort Hunter Fire District and the Rotterdam Fire District No. 5, shall paid on account of the reduction in the assessed value of the Reservoir Parcel for the corrected 2019, 2020 and 2021 assessments of the Reservoir Parcel for the 2019, 2020 and 2021 assessment rolls used to generate the 2020, 2021 and Town, Town Highway, water, sewer and all special district taxes, including all fire district refunds of excess taxes due from the Guilderland Fire District, the Guilderland Center Fire District, Fort Hunter Fire District and the Rotterdam Fire District No. 5, on the Reservoir Parcel; and it is further,

6. **ORDERED, ADJUDGED and DECREED**, that the County of Albany shall refund any excess County, County Highway, water, sewer and all special district taxes, if any and unless exempt from real property taxes, paid on account of the reductions set forth above to the 2019, 2020 and 2021 assessments of the Reservoir Parcel on account of the 2019, 2020 and 2021 assessment rolls used to generate the 2020, 2021 and 2022 County, County Highway, water, sewer and all special district taxes on the Reservoir Parcel; and it is further,

7. **ORDERED, ADJUDGED and DECREED**, that the Guilderland Central School District (the "School District") shall refund any excess School District taxes (including the library taxes) paid on account of the reductions in the assessed value of the Reservoir Parcel set forth above to the 2019, 2020 and 2021 assessments of the Reservoir Parcel on account of the 2019,

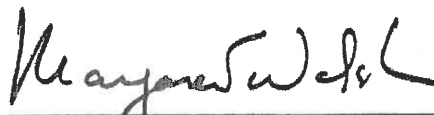
2020 and 2021 assessment rolls used to generate the 2019-2020, 2020-2021 and 2021-2022 Guilderland Central School District taxes (including the library taxes) on the Reservoir Parcel; and it is further,

8. ORDERED, ADJUDGED and DECREED, the provisions of RPTL §727 shall be applicable to the 2021 corrected assessed value for the Reservoir Parcel of \$4,000,000 set forth in paragraph 3 for the 2022, 2023 and 2024 assessment rolls such that the assessment of \$4,000,000 shall be established for the Reservoir Parcel for each of the 2022, 2023 and 2024 assessment rolls of the Town of Guilderland; and it is further,

9. ORDERED, ADJUDGED and DECREED, that further proceedings with respect to the Discontinued Parcels only are discontinued with prejudice and without any adjustment and/or correction to the respective assessed value of the Discontinued Parcels on the 2019, 2020 and 2021 assessment rolls

10. ORDERED, ADJUDGED and DECREED, that the refunds, set forth above, shall be paid to Goldman Attorneys PLLC, attorneys for the Petitioner, 255 Washington Avenue Extension, Suite 108, Albany, New York 12205, without interest or costs, provided any such refunds are made within sixty (60) days of the service of this Stipulation & Order of Settlement with notice of entry thereof.

Dated: April 8, 2022
Albany, New York



Hon. Margaret T. Walsh
Justice, Supreme Court



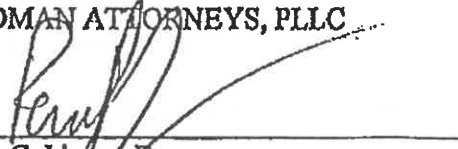
04/08/2022

STIPULATION

The Attorneys for the respective Parties do hereby consent to this Stipulation & Order of Settlement on behalf of their respective clients.

Dated: April 8, 2022

GOLDMAN ATTORNEYS, PLLC



Paul J. Goldman, Esq.
Erika C. Browne, Esq.
Attorneys for Petitioner
City of Watervliet
255 Washington Avenue Extension, Suite 108
Albany, New York 12205
(518) 431-0941

Dated: April 6, 2022

THE VINCELETTE LAW FIRM



Daniel G. Vincelette, Esq.
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(518) 608-6569



NYSCEF Confirmation Notice

Albany County Supreme Court



The NYSCEF website has received an electronic filing on 04/08/2022 01:52 PM. Please keep this notice as a confirmation of this filing.

904624-19

City of Watervliet v. Board of Assessment Review et al
Assigned Judge: Margaret T Walsh

Documents Received on 04/08/2022 01:52 PM

Doc #	Document Type
98	ORDER - OTHER, Motion #1

Filing User

Filed by court user.

E-mail Notifications

An email regarding this filing has been sent to the following on 04/08/2022 01:52 PM:

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904796-20

City of Watervliet v. Board of Assessment Review et al
Assigned Judge: Margaret T Walsh

Documents Received on 04/08/2022 01:53 PM

Doc #	Document Type
84	ORDER - OTHER, Motion #0

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Albany County Supreme Court



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906132-21

City Of Watervliet v. Board of Assessment Review et al
Assigned Judge: Margaret T Walsh

Documents Received on 04/08/2022 01:56 PM

Doc #	Document Type
24	ORDER - OTHER, Motion #1

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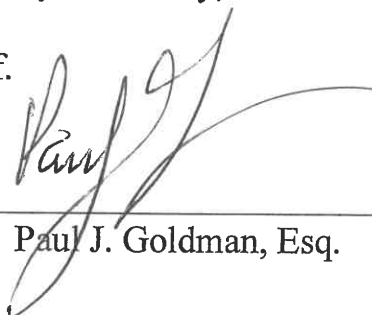
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STATE OF NEW YORK)
)
COUNTY OF ALBANY)

ss.:

I, Paul J. Goldman, an attorney admitted to practice in the State of New York, do hereby certify that I have compared the annexed copy of the Stipulation and Order of Settlement of the Hon. Margaret T. Walsh dated April 8, 2022 with the original on file in the Office of the Clerk of the County of Albany, and have found that the attached is a true and complete copy thereof.

Dated: April 8, 2022



Paul J. Goldman, Esq.

