


ORDINANCE. 126 - 2012

AN ORDINANCE AUTHORIZING THE COUNTY ATTORNEY TO COMPROMISE, SETTLE, AND ADJUST CERTAIN PROCEEDINGS TO REVIEW TAX ASSESSMENT AFFECTING PROPERTY IN THE TOWN OF OYSTER BAY

| <u>PETITIONER</u> | <u>SECTION</u> | <u>BLOCK</u> | <u>LOT(S)</u> |
|----------------------------|----------------|--------------|---------------|
| EXPRESS STREET REALTY, LLC | 13 | 97 | 16; 23 |

FOR THE 2003/04 THROUGH 2008/09 SCHOOL ASSESSMENT ROLL(S) AND ON THE 2004 THROUGH 2009 NASSAU COUNTY ASSESSMENT ROLLS:

PURSUANT TO THE REAL PROPERTY TAX LAW OF THE STATE OF NEW YORK, THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY AND THE NASSAU COUNTY ADMINISTRATIVE CODE, PROVIDING FOR A CAPITAL EXPENDITURE IN THE AMOUNT OF \$377,197.66 TO FINANCE THE PAYMENT THOSE COMPROMISED, SETTLED AND ADJUSTED PROCEEDINGS, AUTHORIZING BONDS OF THE COUNTY OF NASSAU TO FINANCE SAID EXPENDITURE IN THE AMOUNT SET FORTH HEREIN, PURSUANT TO THE LOCAL FINANCE LAW OF NEW YORK AND THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY, AND MAKING CERTAIN DETERMINATIONS PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT.

APPROVED AS TO FORM

Deputy County Attorney

WHEREAS, notices and petitions (writs) were duly served upon the Assessment Review Commission of the County of Nassau by petitioner(s) claiming to be aggrieved by the final assessments which were fixed and determined by the Assessment Review Commission on the 2003/04 through 2008/09 School Assessment Roll(s) and on the 2004 through 2009 Nassau County Assessment Roll(s) for the Town of Oyster Bay in that their properties as set forth in the notices and petitions were erroneously assessed; and

WHEREAS, these proceedings are still pending against the Assessment Review Commission and are now on the trial calendar of the Supreme Court, Nassau County; and

WHEREAS, the Assessment Review Commission has released the proceeding to the County Attorney for trial purposes; and

WHEREAS, since the release of those proceedings to the County Attorney by the Assessment Review Commission, the County Attorney has investigated the objections and caused an appraisal to be made of the properties set forth in the various notices and petitions, and the

petitioners or their attorneys have submitted offers to the County Attorney, wherein the agree to compromise, settle, and adjust their pending proceedings to review the tax assessments upon the basis set forth in each of the offers made; and

WHEREAS, the County Attorney has considered the offers of settlement and after investigating and making reports thereon, which are now on file in the Office of the County Attorney, approving said offers and has recommended that the proceedings be compromised, settled and adjusted as to the property in the Town of Oyster Bay, known as

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on the Land and Tax Map of the County of Nassau, by reducing the assessment thereon as here set forth

; and

WHEREAS, the County Attorney recommends to this County Legislature that the foregoing proceedings to review tax assessments be compromised, settled, and adjusted upon the aforesaid basis; now, therefore, be it

RESOLVED, that the County Attorney be and hereby is authorized to proceed to compromise, settle, and adjust and discontinue each of the aforesaid proceedings to review tax assessments brought against the Assessment Review Commission of Nassau County in accordance with the amounts of reduction recommended by the County Attorney as heretofore set forth, provided that the bonding authorized pursuant to this legislation is approved by a two-thirds vote of the voting strength of the County Legislature and that all of the settlements are to be made without costs to any of the parties; and be it further

ORDAINED by the County Legislature of the County of Nassau as follows:

Section 1. It is hereby determined pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 N.Y.E.C.L. section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County that the settlement and payment of those claims which have been compromised, settled and adjusted in this Ordinance is a "Type II Action" within the meaning of Section 617.5(c)(29) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment and no further review is required.

§ 2. A capital expenditure for financing the cost of the payment of those claims which have been compromised, settled and adjusted in this legislation, pursuant to Article 7 of the Real Property Tax Law of the State of New York, in the County of Nassau, is hereby authorized upon recommendation of the County Executive and by a two-thirds vote of the voting strength of the County Legislature, the amount of such capital expenditure not-to-exceed \$377,197.66, consisting of the settlement amount plus two percent for costs of issuance, which shall be financed with the proceeds from the issuance of bonds not-to-exceed such amount for the payment by the County of Nassau of those claims which have been compromised, settled and adjusted in this legislation.

§ 3. The County of Nassau (the "County") shall issue its bonds in the aggregate principal amount not-to-exceed \$377,197.66 pursuant to the Local Finance Law of New York (the "Law") in order to finance the class of objects or purposes (hereinafter referred to as the "Purpose") described in Section 2 hereof.

§ 4. The County Legislature has determined and hereby states that the estimated maximum cost of such Purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$377,197.66. The plan of financing includes the issuance of up to \$377,197.66 bonds of the County and the levy and collection of taxes on all the taxable real property of the County to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

§ 5. The County Legislature hereby determines that the period of probable usefulness of the Purpose for which said \$377,197.66 bonds authorized pursuant to this ordinance are to be issued, within the limitations of subdivision 33-a. of paragraph a. of Section 11.00 of the Law,

(a) where the accumulated tax refunds to be paid by the County as a result of such compromised, settled and adjusted claims are more than one per centum but less than three per centum of that portion of the real property tax levy of the County to be levied for its municipal purposes for the year in which payment is to be made, is ten (10) years; or

(b) where the accumulated tax refunds to be paid by the County as a result of such compromised, settled and adjusted claims are more than three per centum but less than five per centum of that portion of the real property tax levy of the County to be levied for its municipal purposes for the year in which payment is to be made, is fifteen (15) years; or

(c) where the accumulated tax refunds to be paid by the County as a result of such compromised, settled and adjusted claims are more than five per centum of that portion of the real property tax levy of the County to be levied for its municipal purposes for the year in which payment is to be made, is twenty (20) years.

§ 6. Each of the bonds authorized by this ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the County, payable as to both principal and interest by general tax upon all the taxable real property within the County without limitation of rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the County by appropriation for (a) the amortization and redemption of said bonds and any notes issued in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

§ 7. Subject to the terms and conditions of this ordinance and the Law, and pursuant to the provisions of Section 21.00, Section 30.00, Section 50.00, Sections 56.00 to 60.00 and Section 63.00 of the Law, the powers and duties of the County Legislature relative to authorizing bond anticipation notes and the renewals thereof, determining whether to issue bonds with substantially level or declining annual debt service, prescribing the terms, form and contents of the bonds herein authorized, bond anticipation notes issued in anticipation of said bonds and the renewals thereof, and

any other powers or duties pertaining to or incidental to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds and the renewals thereof, are hereby delegated to the County Treasurer, the chief fiscal officer of the County.

§ 8. The County Treasurer is hereby authorized to cause such bonds and/or bond anticipation notes to be printed and to do such things as may be necessary to provide for the sale of such bonds and/or bond anticipation notes and to employ bond counsel to furnish to the purchaser or purchasers of such obligations an opinion as to their legality.

§ 9. The validity of any County bonds authorized by this ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of this ordinance, or summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication; or

- (c) such obligations are authorized in violation of the provisions of the constitution of the State of New York.

§ 10. This ordinance shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as set forth in this ordinance, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the objects or purposes described herein.

§ 11. The Clerk of the County Legislature is hereby directed to publish this ordinance in full, or a summary thereof, together with a notice in substantially the form prescribed by Section 81.00 of the Law in the official newspaper of the County.

§ 12. If any clause, sentence, paragraph, subdivision, section, or part of this legislation or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall invalidate the remainder thereof and this legislation shall be null and void; and, if any provision of this legislation shall by law require a two-thirds vote of the voting strength of the County Legislature but which is not obtained, then in such event the remainder of this legislation shall be invalidated and be null and void..

§ 13. This ordinance shall take effect immediately upon its adoption.