



State of Vermont
Department of Taxes
133 State Street
Montpelier, VT 05633-1401

Agency of Administration

October 7, 2013

DK Burlington Town Center
c/o General Growth Properties
P. Michale Majury, Property Tax Manager
PO Box 617905
Chicago, IL 60661-7905

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2013 OCT - 8 A 10:55
BURLINGTON CLERK
(TREASURER'S OFFICE)

Re: DK Burlington Town Center v. City of Burlington (PVR #2012-140)

Dear Mr. Majury:

Enclosed is a copy of the decision of the Property Tax Hearing Officer¹ relating to the above-captioned appeal from a decision of the Burlington board of tax appeals. The appeal concerned the assessment of the property for the 2012 grand list.

A copy of this decision is being forwarded to the Burlington City Clerk for recording in the grand list book in accord with 32 VSA §4468.

An appeal from this decision is to the Vermont Supreme Court. 3 VSA §815 and the Vermont Rules of Appellate Procedure govern appeals of this nature. Such appeals must be received in the office of the director within 30 days of the date of entry noted on the enclosed decision and must be accompanied by a filing fee of \$262.50 made payable to the Vermont Supreme Court.

If you have any questions, feel free to contact my office.

Sincerely,

William E. Johnson, Director
Property Valuation and Review Division

fm

Enclosure

cc: Burlington City Clerk
Board of Listers / Assessor, Town of Burlington

¹ On July 1, 2013 State Appraiser changed to Property Tax Hearing Officer

John V. Morrissey

TAX APPEAL HEARING OFFICER

359 Houston Farm Road

Stowe, VT 05672

802 253-4009

morrissey.ptho@gmail.com

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DK Burlington Town Center)

v.

City of Burlington)

Date of entry

PVR 2012-140)

by Director October 7, 2013
fm

INTRODUCTION

This appeal came before the Tax Appeal Hearing Officer pursuant to an appeal from a decision by the City of Burlington Board of Tax Appeals for the 2012 Grand List. The parties have entered into a stipulation wherein they agree that the value of the subject property shall be set in the Grand List at:

\$3,600,000


ORDER

Pursuant to V.S.A 809 (d), the Hearing Officer accepts the stipulation of the parties. The correct 2012 listed value of the subject property is hereby determined to be \$3,600,000.

This decision shall be binding upon the parties for the April 1, 2012 Grand List, the April 1, 2013 Grand List and the April 1, 2014 Grand List, in accordance with the attached Settlement Agreement, unless the property is materially altered or the City undergoes a complete revaluation.

The foregoing is reported to the Director of the Division of Property Valuation and Review pursuant to 32 V.S.A. 4467.

Dated at Stowe, Vermont this 1st day of October 2013.


John V. Morrissey, Tax Appeal Hearing Officer

CITY OF BURLINGTON

In Re: Burlington Town Center, LLC, Appellant
101 Cherry Street (5 Burlington Square),
Burlington, Vermont
Tax ID 044-4-004-001

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SETTLEMENT AGREEMENT

NOW COME THE PARTIES, Burlington Town Center, LLC ("Burlington Town Center"), by and through its attorney, Anthony Ambriano, Esq., and the City of Burlington ("City"), by and through its Assessor, John Vickery, and agree to settle the above-captioned dispute as set forth in this Settlement Agreement.

WHEREAS, Burlington Town Center is the owner of land and premises located at 101 Cherry Street (5 Burlington Square), Burlington, Vermont, with a Parcel ID # 044-4-004-001 ("Property"); and

WHEREAS, for the tax year 2009-2010, the City Assessor issued a Notice of Appraisal Value Change, appraising the Property at \$4,117,095; and

WHEREAS, Burlington Town Center requested a grievance hearing; and

WHEREAS, the Board of Assessors issued a decision on June 18, 2012, denying the appeal, which Burlington Town Center timely appealed to the City Board of Tax Appeals ("BTA"); and

WHEREAS, the Burlington Board of Tax Appeals issued a majority decision upholding the Assessor's grand list assessed value at \$4,117,095; and

WHEREAS, on February 20, 2013, Burlington Town Center appealed the Property's grand list assessed value to the Director of the Division of Property Valuation and Review of the Vermont Department of Taxes; and

WHEREAS, this Settlement Agreement is intended to settle any and all claims for tax years 2012-2013, 2013-2014, and 2014-2015.

NOW THEREFORE, as a compromise to avoid further litigation, the parties agree to settle their dispute based upon the following terms:

1. The Property's appraisal for tax years 2012-2013 and 2013-2014 shall be set in the Grand List at \$3,600,000. This is based on valuation reductions attributable to a current 74 % leased space vacancy rate for the property.
2. The parties agree that for tax year 2014-2015, the Property's appraisal may be adjusted upward based upon any significant net increase in the leased space for the Property. The Parties agree that for the tax year 2014-2015, the Property's appraisal will not be adjusted downward based on any net decrease in the leased space for the Property.
3. For purposes of paragraph 2 above, by April 20 of 2014, the owner shall provide to the Assessor's Office the rented square footage of the Property as of April 1, 2014.
4. The parties agree that, at the end of the three years identified above, the City of Burlington's Assessor's Office will re-examine the occupancy, income, expenses and leases and make whatever adjustment to appraised value as of April 1, 2015, as deemed appropriate. Each party shall have whatever rights exist pursuant to applicable statute in regard to the Property's appraisal as of April 1, 2015 or thereafter.

Burlington Town Center waives any claim for interest accrual on a reimbursement of excess taxes paid for tax year 2012-2013 based on the above adjustment to the Property's appraisal.

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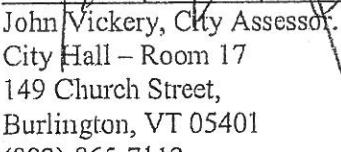
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6. This Settlement Agreement reflects the entire agreement between the parties.

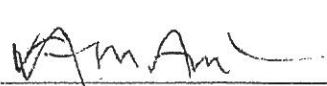
7. ~~6~~ This Settlement Agreement binds the Burlington Town Center, its successors and assigns.

DATED AT Burlington, Vermont this 24th day of September, 2013.

CITY OF BURLINGTON, VT


John Vickery, City Assessor.
City Hall - Room 17
149 Church Street,
Burlington, VT 05401
(802) 865-7112

BURLINGTON TOWN CENTER, LLC


Anthony M. Ambriano, Esq.
Sassoon & Cynrot Attorneys at Law
84 State Street
Boston, MA 02109
(617) 720-0099
Duly Authorized as
Attorney for Burlington Town Center, LLC

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