

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

IN RE: Fortieth Burlington, LLC,)
 Appellant) CHITTENDEN SUPERIOR COURT
) Docket No. S _____ CnC

STIPULATED JUDGMENT

NOW COME THE PARTIES, Fortieth Burlington, LLC ("Fortieth Burlington"), by and through its attorneys, Murphy Sullivan-Kronk, and the City of Burlington (the "City"), by and through its attorney, Richard Haesler, Esq., and agree to settle the above-captioned dispute as set forth in this Stipulated Judgment proposed to the Court on the date(s) set forth herein.

WHEREAS, Fortieth Burlington is the owner of land and premises located at 128 Lakeside Avenue, Burlington, Vermont, with a Parcel ID # 053-2-010-000 ("Property");

WHEREAS, for the tax year 2009-2010, the City Assessor appraised the Property at a value of \$25,000,000;

WHEREAS, Fortieth Burlington appealed the Property appraisal to the City Board of Tax Appeals ("BTA");

WHEREAS, on December 29, 2009, the BTA issued a decision setting the grand list appraised value at \$25,000,000;

WHEREAS, on January 9, 2010, Fortieth Burlington appealed the Property appraisal to Superior Court;

WHEREAS, this Stipulated Judgment is intended to settle any and all claims for tax years 2009-2010, 2010-2011, 2011-2012.

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

1. The Property's appraisal for tax year 2009-2010 shall remain at \$25,000,000.00.
2. The Property's appraisal for tax year 2010-2011 shall be \$16,450,000 and 2011-2012 shall be \$14,100,000.
3. It is agreed and stipulated that Fortieth Burlington has paid all taxes due to date for tax year 2009-2010 and that, as of the date of this Agreement, no penalties or interest are due for said tax year.
4. The parties agree that, at the end of the three tax years identified above, the City of Burlington Assessor's Office will re-examine the occupancy, income, expenses and leases and may make adjustment to the appraised value as of April 1, 2012, as deemed appropriate. Each party shall have whatever rights exist pursuant to applicable statute in regard to the appraisal made as of April 1, 2012 or thereafter.
5. This Stipulated Judgment reflects the entire agreement between the parties.
6. This Stipulated Judgment binds Fortieth Burlington, its successors and assigns.
7. The Parties have duly authorized their counsel of record to enter into this Stipulated Judgment.

DATED AT Burlington, Vermont this ____ day of January, 2010.

City of Burlington, VT

Fortieth Burlington, LLC

By: Attorney for the City of Burlington
Burlington City Attorney's Office

By: Attorneys for Fortieth Burlington, LLC
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SO ORDERED

Hon. Helen M. Toor, Presiding