

Upon the recommendation of the School District's attorneys and having had an opportunity to consider the proposed settlement in the Matter of the Application of Chemung Canal Trust Company, Petitioner v. Town of Elmira Assessor, Town of Elmira Board of Assessment Review, and the Town of Elmira, Chemung County, New York, Respondents, Index No. 2016-1738

On motion of _____, seconded by _____, it is

RESOLVED that the above settlement is approved and that the President of the Board of Education, the Superintendent of Schools and the School District's attorneys are each separately authorized to sign any documents necessary to complete the settlement.

STATE OF NEW YORK
SUPREME COURT COUNTY OF CHEMUNG

In the Matter of the Application of
CHEMUNG CANAL TRUST COMPANY,

Petitioner,

-against-

**TOWN OF ELMIRA ASSESSOR, TOWN OF ELMIRA
BOARD OF ASSESSMENT REVIEW and the TOWN OF
ELMIRA, CHEMUNG COUNTY, NEW YORK,**

Respondents,

**STIPULATION AND
CONSENT ORDER
REDUCING ASSESSMENT**

Index No. 2016-1738

ELMIRA HEIGHTS CENTRAL SCHOOL DISTRICT,

Intervenor-Respondent.

PRESENT: Hon. Judith F. O'Shea
 Supreme Court Justice

Petitioner, Chemung Canal Trust Company, commenced the above captioned proceedings in the Supreme Court of Chemung County, State of New York, pursuant to Article 7 of the Real Property Tax Law, to review the real property tax assessment made by Respondents for the year 2016 on premises of Petitioner described on the Town of Elmira Final Assessment Rolls:

Tax Identification Number	Address
79.13-1-31	100 West McCann Boulevard

being the real property (in whole or in part) mentioned and more fully described in the Petition filed, and the parties having reached an agreement for compromise and settlement of the proceeding referred to herein, and the parties having entered into a "Stipulation of Settlement", by and through their attorneys, setting forth the terms of such agreement for compromise and settlement:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the assessment for Petitioner's real property designated upon the assessment roll for the

Town of Elmira for the year 2016, by the following tax identification number, be and the same is reduced as follows:

Tax Identification Number	2016 Ordered Assessed Value	Town's Assessed Value	2016 Ordered Reduction
79.13-1-31	374,000	512,300	138,300

2. That Respondent or other officers having custody of the assessment rolls of the Town of Elmira for the year 2016 shall forthwith correct and revise the entries for the assessment of this property on the assessment roll to reflect the assessment reduction herein recited by making appropriate notations thereon.

3. Respondents shall pay no refunds with respect to the final assessment roll for the year 2016; PROVIDED, the Town establishes the assessed value on the 2017 final assessment rolls as follows:

Tax Identification Number	2017 Ordered Assessed Value	Town's Assessed Value	2017 Ordered Reduction
79.13-1-31	235,700	512,300	276,600

In 2018, the assessed value shall be \$374,000. Should the Town fail to establish the assessed value on the 2017 final assessment rolls as set forth above, then, Petitioner shall recover from the Town of Elmira, County of Chemung, New York and all other taxing entities, including all school and special districts that use the 2017 final assessment rolls of said Town, the various principal amounts paid to such taxing entities as and for excess taxes for the 2017 tax years, which results from the difference between the ordered final assessment and the Town's stated assessment for the above-described tax identification number on the 2017 final assessment rolls (or other levying periods for

which the 2017 final assessment rolls were used), with interest as required by RPTL § 726 from the date of payment of said excess taxes for the final assessment roll the years 2017).

4. That the provisions of RPTL §727 are waived with respect to the 2017 and 2018 final assessment rolls.

5. That the settlement of this proceeding is hereby approved as just, reasonable, and to be in the best interests of the Town of Elmira, County of Chemung, special districts, and all applicable school districts.

6. That the above captioned proceeding is hereby discontinued (without costs or attorney fees), except that Petitioner may re-open the proceeding for the sole purpose of enforcing this Order and may reinstate the 2016 proceeding to the trial calendar, and for such other and further relief as the Court may deem appropriate.

7. It is specifically agreed between the parties that this Stipulation, any portion thereof, as well as all facts pertaining to the negotiation and execution of this Stipulation shall be inadmissible in any subsequent action or proceeding before any court of law or administrative body for any purpose, except that this Stipulation and its provisions shall be admissible in any action or proceeding for enforcement of its provisions.

8. Subject to the settlement of the above captioned proceeding being approved by a Justice of the Supreme Court, the parties hereto represent that the individuals executing this Stipulation have been fully authorized by their respective clients to enter into this Stipulation with full and binding effect upon their clients, the parties to this proceeding.

9. This Stipulation is the full, final and complete Stipulation, and it supersedes any prior oral or written agreement between the parties. The parties are entering into this Stipulation

in order to save litigation expenses that would be sustained if the issues herein could not be resolved amicably.

10. This Stipulation may not be modified except by a subsequent writing signed by the authorized representative of all parties herein.

11. If any provision of this Stipulation of Settlement, or the Order Reducing Assessment, prepared in accordance herewith, shall be determined to be invalid, illegal, null or void, or unenforceable to any extent, the remainder of this Stipulation of Settlement and its application shall not be affected and shall be enforceable to the fullest extent permitted by law.

FOR: PETITIONER
by its attorneys,
BARCLAY DAMON, LLP

FOR: RESPONDENT, Town of Elmira
by its attorney,

By: _____
Ekin Senlet, Esq.
80 State Street
Albany, New York 12207

By: _____
Scott D. Moore, Esq.
Town of Elmira
1255 West Water Street
Elmira, New York 14905

Dated: _____, 2017

Dated: _____, 2017

FOR: INTERVENOR-RESPONDENT,
Elmira Heights Central School District
by its attorneys,
HOGAN, SARZYNSKI, LYNCH,
DeWIND & GREGORY, LLP

By: _____
Cameron B. Daniels, Esq.
P. O. Box 660
Binghamton, New York 13902

Dated: _____, 2017

ENTER

Dated: _____, 2017

Hon. Judith F. O'Shea, J.S.C.