

**STATE OF RHODE ISLAND
PROVIDENCE, SC**

SUPERIOR COURT

**HARRISBURG ASSOCIATES, LLC,
LERNER ASSOCIATES, LLC,
ALICE BUILDING, LLC,
PEERLESS LOFTS, LLC,
SMITH/KEEN, LP
LAPHAM 290, LLC
RWB ASSOCIATES, LLC
276 WESTMINSTER, LLC
CLEMENCE 91, LLC
DOWNCITY REVITALIZATION FUND I, LLC
PLAINTIFFS**

VS.

C.A.NO.: PC-2020-04757

**THE CITY OF PROVIDENCE,
ELYSSÉ PARÉ, in her capacity as Tax Assessor
Of the City of Providence, and
JAMES LOMBARDI, III, in his capacity as
Treasurer of the City of Providence
DEFENDANTS**

CONSENT ORDER

The above captioned matter was filed by the Plaintiffs seeking declaratory judgment to resolve disputes between the parties related to the Plaintiffs' request for taxes to be assessed on their respective properties pursuant to R.I.Gen.Laws §44-5-13.11. After a series of settlement conferences between the parties, the parties have agreed upon the terms of this Consent Order. Therefore, by agreement of the parties, it is hereby:

ORDERED, ADJUDGED AND DECREED:

1. Plaintiffs Motion to Amend its Complaint to add additional plaintiffs is granted.
2. The Plaintiff and City of Providence shall enter into and record a 30-year restrictive covenant in favor of the City of Providence restricting twenty five percent (25%) of the

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total residential units at each Plaintiff's respective property for occupancy by tenants who have an income of no greater than one hundred percent (100%) of the area median income (AMI) for each respective property within forty-five (45) days of the entry of this Consent Order.¹ Each respective Plaintiff shall have the option to terminate the restrictive covenant in favor of the City of Providence upon providing ninety (90) days written notice to the Tax Assessor and City Solicitor's Office. In the event that any Plaintiff and the City wish to extend the restrictive covenant beyond thirty (30) years, nothing herein shall preclude the parties from doing so.

3. In exchange for restricting the units for occupancy by tenants making no more than one hundred percent (100%) AMI, the City agrees that each Plaintiffs' respective properties will be subject to a real property tax that is equal to eight percent (8%) of each properties' previous years' gross scheduled income pursuant to R.I. Gen. Laws §44-5-13.11 retroactive to tax year 2020's first quarterly payment of July 24, 2020.
4. The Plaintiffs shall have ninety (90) days from the date of the recording of the restrictive covenant to demonstrate compliance with the requirement that each of the Plaintiffs' respective properties has twenty five percent (25%) of its residential units restricted for occupancy by tenants making no more than one hundred percent (100%) of AMI.

¹ As pled in the Complaint, the Plaintiffs' respective properties are as follows:

1. Harrishurg Associates, LLC - 89 Eddy Street, Providence, RI
2. Lerner Associates, LLC - 90 Eddy Street, Providence, RI
3. The Alice Building, LLC - 236 Westminster Street, Providence, RI
4. Smith/Keen, LP - 1 Fulton Street, Providence, RI
5. Lapham 290, LLC - 290 Westminster Street, Providence, RI
6. Peerless Lofts, LLC - 150 Union Street, Providence, RI
7. Clemence 91, LLC - 91 Clemence Street, Providence, RI
8. RWB Associates, LLC - 270 Westminster Street, Providence, RI
9. 276 Westminster, LLC - 276 Westminster Street, Providence, RI
10. Downcity Revitalization Fund I, LLC - 326 Westminster Street, Providence, RI

5. Failure on the part of any Plaintiffs to demonstrate compliance with the requirements that Plaintiff's respective properties has twenty-five percent (25%) of its residential units restricted for occupancy by tenants making no more than one hundred percent (100%) of AMI will result in retroactive assessment such that full and fair taxation without the benefit of R.I.Gen.Laws §44-5-13.11 shall become immediately due and payable upon 10 days notice on the part of the City.
6. The 2021 tax bills for each Plaintiffs' property shall be adjusted to reflect an assessment pursuant to R.I.Gen.Laws §44-5-13.11 and the Plaintiffs shall receive a credit from the Defendants for any overpayment of taxes that has occurred since tax year 2020's first quarterly payment of July 24, 2020 provided that the Plaintiff must bring the Plaintiffs' properties into compliance with the terms of the restrictive covenant referenced in paragraph 1 of this Consent Order within ninety (90) days of the recording of said restrictive covenant.
7. In the event that one of the Plaintiffs is unable to bring its respective property into compliance with the terms of the restrictive covenant referenced in paragraph 1 of this Consent Order within ninety (90) days of the recording of the restrictive covenant, each respective property shall receive retroactive assessment such that full and fair taxation without the benefit of R.I.Gen.Laws §44-5-13.11 shall become immediately due and payable upon 10 days notice. That particular Plaintiff shall be given until December 31, 2021 to bring the property into full compliance in order to begin being assessed taxes pursuant to §44-5-13.11 for tax year 2022.
8. Lapham 290, LLC ("Lapham Owner"), 276 Westminster, LLC, RWB Associates, LLC, Clemence 91, LLC agree to withdraw and forever forgo any right, entitlement, or benefit

provided under the existing TSA beginning with tax assessment as of December 31, 2020
for tax year 2021 and thereafter.

By agreement of the parties:

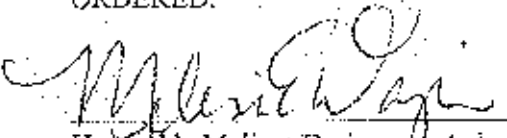
Plaintiffs,
By their attorney,

/s/ Nicholas J. Hermond, Esq.
Nicholas J. Hermond, Esq. #8782
DarrowEverett, LLP
One Turks Head Place, Suite 1200
Providence, Rhode Island
401-453-1200
nhermond@darroweverett.com

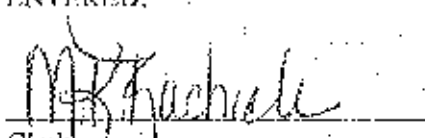
Defendants,
By their attorney,

/s/ Jeffrey Dana, Esq.
Jeffrey Dana, Esq.
City Solicitor
444 Westminster Street, Suite 220
Providence, Rhode Island
401-680-5333
jdana@providenceri.gov

ORDERED:


Honorable Melissa Darigan *6/8/21*

ENTERED:


Clerk
Dated: *6/8/21*

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of May, 2021, I filed and served a true copy of the within document through the electronic filing system on the counsels of record for the opposing parties.

This document, electronically filed and served, is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Sean M. Rock