

FILED

JAN 3 2019

STATE OF VERMONT

VERMONT  
SUPERIOR COURT  
ENVIRONMENTAL DIVISION

SUPERIOR COURT

ENVIRONMENTAL DIVISION  
DOCKET NO. 77-7-18 Vtec

In Re: )  
SISTERS & BROTHERS INV. GROUP, LLP )

**STIPULATION OF DISMISSAL WITH PREJUDICE**

The Parties, Applicant/Appellant Sisters & Brothers Inv. Group, LLP, and Appellee, City of Burlington, by their respective attorneys, hereby stipulate pursuant to V.R.C.P. 41(a)(1)(ii) that the above-captioned matter shall be dismissed with prejudice.

Each Party shall be responsible for its own attorney's fees and costs regarding the above-referenced matter.

WHEREFORE, the parties request that the Court enter an order dismissing the case with prejudice.

Dated at Burlington, Vermont this 31<sup>st</sup> day of December, 2018.

APPLICANT/APELLLANT

CITY OF BURLINGTON

BY: David H. Greenberg  
David H. Greenberg, Esq.

BY: Kimberlee J. Sturtevant  
Kimberlee J. Sturtevant, Esq.

I, Thomas Dettre, Interested Person in the above-referenced matter, do hereby agree and consent to this Stipulation of Dismissal with Prejudice.

By: Thomas C Dettre  
Thomas Dettre

SO ORDERED.

DATED at Burlington, Vermont, this 3<sup>rd</sup> January, 2019 day of ~~December~~ 2018.

By: Tom Walsh  
Thomas G. Walsh, Judge  
Superior Court, Environmental Division

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SISTERS & BROTHERS INV. GROUP, LLP )

AGREEMENT

NOW COME the Parties, Applicant/Appellant Sisters & Brothers Inv. Group, LLP, and Appellee, City of Burlington, and hereby enter into this Agreement to resolve the above-referenced matter.

WHEREAS, in a decision dated June 25, 2018 the Burlington Development Review Board upheld an administrative determination that the conditional approval for a proposed 57-unit residential building with associated underground parking that Applicant/Appellant originally obtained on July 2, 2013 (ZP13-0650CA/MA) had expired for failure to commence in the required time period (ZP18-1007AP);

WHEREAS, Applicant/Appellant appealed this decision to the Vermont Superior Court-Environmental Division and that appeal contested the basis of the above-referenced matter; and

WHEREAS, both parties agree it is in their mutual interest to resolve this matter without use of further judicial resources.

NOW THEREFORE IT IS AGREED, by and between the City/Appellee and Applicant/Appellant as follows:

1. On or before June 30, 2019, Applicant/Appellant may reapply for a zoning permit for its project described as a 57-unit residential building with associated underground parking at 110 Riverside Avenue for \$130 (base permit fee of \$150 minus a \$20 credit), there would be no other zoning application fee or DRF (Development Review Fees). The only thing that would increase the application or DRF fee would be if the cost of construction ends up being greater than estimated (this is the same for any other project). Appellee understands that the estimated cost of construction for ZP13-0650CA/MA was \$4,560,000 (as submitted per requirement of condition #2 of the original permit). This would be the starting point for any changes in the ECC and corresponding fees (if the ECC goes up, Applicant/Appellant shall be responsible for any increase in fees, if the ECC goes down, there will not be a refund from Appellee).
2. Impact fees would be due at least seven days prior to occupancy (this is standard).
3. After June 30, 2019, any future application would be considered as new, with new fees, process, etc.
4. Each Party shall be responsible for its own attorney's fees and costs regarding the above-referenced matter.
5. In the event Applicant/Appellant does re-apply for the above zoning permit on or before June 30, 2019, the application shall be reviewed by the Development Review Board pursuant to the same substantive standards that were used regarding the zoning permit obtained by Appellant on July 2, 2013 as described above.
6. The parties shall submit an Order to the Court dismissing the above captioned appeal on the basis of this Agreement.

Dated at Burlington, Vermont this 27<sup>th</sup> day of December, 2018.

**APPLICANT/APELLANT**  
**Sisters & Brothers Investment Group**  
**LLP**

David Greenberg  
Witness

By:

Joseph Handy  
Joseph Handy, Duly Authorized

Approved as to Form:

David H. Greenberg  
David H. Greenberg, Esq.

Dated at Burlington, Vermont this 31<sup>st</sup> day of December, 2018.

**CITY OF BURLINGTON**

Kimberlee J. Sturtevant  
Witness

By:

David White  
David White, Zoning Administrative  
Officer and Director, Department of  
Planning and Zoning  
Duly Authorized

Approved as to Form:

Kimberlee J. Sturtevant  
Kimberlee J. Sturtevant, Esq.

I, Thomas Dettre, Interested Person in the above-referenced matter, do hereby agree  
and consent to this Agreement.

By:

Thomas C Dettre  
Thomas Dettre