

Resolution of the Demarest Governing Body

Resolution No. 124-26

June 8, 2026

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski	✓		✓			
Carmeli			✓			
Collins			✓			
Jiang			✓			
Marks			✓			
Reiss		✓	✓			

TITLE: RESOLUTION AUTHORIZING EXECUTION OF SETTLEMENT AGREEMENT AND MUTUAL RELEASE

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WHEREAS, Raymond Cywinski ("Cywinski") and Kyusoon Lee ("Lee") filed claims against the Borough of Demarest (the "Borough") and 232 County Development, LLC in the Superior Court of New Jersey, Bergen County Law Division under Docket No. BER-L-3217-26 and asserted objections and filed motions as Interested Parties in an action filed under Docket No. BER-L-738-25 (the "Litigation"); and

WHEREAS, a Notice of Lis Pendens was filed under Docket No. BER-L-3217-26 which listed Lee and Cywinski as Parties and claimed that the Litigation affected Borough owned property located at 129 Hardenburgh Avenue, Demarest, New Jersey, Block 23 Lot 15 (the "Borough Property") and affected property located at 232 County Road, Demarest New Jersey - Block 63, Lot 5 – (hereinafter the "232 County Property") which 232 County Development, LLC is under contract to purchase and which the Estate of Ernest H. Frank ("Frank") is the owner of 232 County Road, Demarest, New Jersey ; and

WHEREAS Cywinski subsequently filed a voluntary dismissal without prejudice concerning his claims in Docket No. BER-L-3217-26; and

WHEREAS, the Borough, 232 County Development, LLC and Frank have alleged each has claims for an award of attorney's fees and costs of suit in connection with the Litigation; and

WHEREAS, after Cywinski removed his name from the Notice of Lis Pendens, the Borough then filed a Complaint and Order to Show Cause against Lee in the Superior Court of New Jersey, Bergen County Vicinage at Docket No. BER-L-3822-26 (collectively, the "Borough's Complaint") seeking an Order directing Lee to Discharge the Notice of Lis Pendens and an Order awarding the Borough reasonable attorney's fees and cost of suit; and

WHEREAS, within the Litigation, Cywinski and Lee sought to challenge various components of the Borough's settlement of its affordable housing fair share obligation, including but not limited to the Borough's Housing Element and Fair Share Plan, the challenges filed by Fair Share Housing Center and 232 County Development LLC, the Borough's subsequent adoption of Resolution 222-25 authorizing the Settlement Agreement regarding same and the subsequent sale of Block 23, Lot 15(the "Bank site"), and the Ordinances 1174, 1175, 1176 and 1177 which were thereafter adopted by the Borough in connection with same, including but not limited to allegations that the Ordinances were not properly adopted; and

WHEREAS all motions filed and relief sought by Cywinski and Lee under Docket No. BER-L-738-25 have been wholly denied by the Court and the action was ultimately dismissed by the Court, resulting in defense costs incurred by the Borough; and

WHEREAS Lee has since filed a Discharge of the Lis Pendens against the Borough Property and 232 County Property; and

WHEREAS, the Borough currently has a motion pending to dismiss Lee's claims which includes seeking an award of Attorney's fees; and

WHEREAS, prior to the motion being heard, Lee proposed a global settlement, the terms of which have since been negotiated by the Borough Attorney in the form of a Settlement Agreement and Mutual Release (the "Agreement"); and

WHEREAS, Cywinski, Lee, 232 County Development, LLC, Frank and the Borough (collectively the "Parties") have agreed to resolve all outstanding claims, causes of action and appealable rights, if any, each may have against the other; and

WHEREAS, without admitting liability or fault, and to avoid the delay and expense of additional litigation, the Parties have agreed to dismiss all pending actions with prejudice, to waive any appealable rights from the Litigation, and to forever release and waive claims against each other for any claims or actions, known or unknown through the date of execution of the Agreement, excluding any tax liability Cywinski and Lee have as residents of the Borough; and

WHEREAS, the Agreement further provides that in recognition of the fact that as of the date of execution of the Agreement, all motions filed by Cywinski and Lee and ruled upon have been universally denied by the Court, at the expense of the Borough, 232 County Development LLC and Frank, Cywinski and Lee agree that in the event either breaches any term of the Agreement, and subject to a finding that the Borough and/or 232 County and Frank is/are a prevailing party, the Borough and/or 232 County, and Frank shall be entitled to an award of reasonable attorney's fees and costs of suit incurred in any future action filed to enforce the terms

of the Agreement and/or to defend any future action or claim filed by Lee and/or Cywinski arising out of the subject matter of the Agreement; and

WHEREAS, the Borough Attorney has reviewed the terms of the Agreement and recommends that the Borough authorize the Mayor to execute same.

NOW, THEREFORE, be it resolved, that the Mayor is hereby authorized to execute the Settlement Agreement and Mutual Release, and

BE IT FURTHER resolved, that upon the Borough Attorney's receipt of the fully executed Agreement, the Borough Attorney is hereby authorized to execute and file with the Court the appropriate Stipulations of Dismissal.

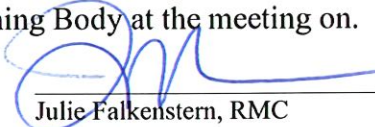
APPROVED:



Brian Bernstein, Mayor

CERTIFICATION

I, Julie Falkenstern, Borough Clerk of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on.



Julie Falkenstern, RMC
Borough Clerk