

COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA VENTURE CAPITAL, INC.,	:	
Appellant	:	No. 1904 C.D. 2013
	:	
vs.	:	
	:	
ZONING HEARING BOARD OF THE CITY OF	:	
BETHLEHEM and CITY OF BETHLEHEM,	:	
BETHLEHEM AREA SCHOOL DISTRICT, DIANE	:	
MASON, TIM MASON, LICIA PAULUS,	:	
STEPHEN BARRON, JUDY SMULLEN, DAVID	:	
SMULLEN, PAT PAULUS, DEAN PAULUS,	:	
CATHERINE KOLLET, ESQUIRE, BRIE	:	
CHAMBERS AND TODD CHAMBERS and	:	
SPRING GARDEN NEIGHBORHOOD	:	
ASSOCIATION and BETHLEHEM CITY COUNCIL,	:	
Appellees	:	

COPY

STATUS REPORT OF APPELLANT,
PENNSYLVANIA VENTURE CAPITAL, INC.
FOLLOWING MEDIATION CONDUCTED ON NOVEMBER 19, 2013


The parties have memorialized the Stipulation and Settlement Agreement negotiated through Mediation. A copy of the Stipulation and Settlement Agreement is attached.

In accordance with that Agreement, Appellants are to apply for and to receive two zoning permits, to wit, a sign permit and a permit for a Residential Treatment Facility. The Appellants have received their sign permit. Appellants are making application for their zoning permit for the Residential Treatment Facility on today's date.

Upon receipt of the permit for the Residential Treatment Facility in accordance with the Agreement, the Zoning Appeals will be immediately withdrawn in accordance with Paragraph 5 of the Stipulation and Settlement Agreement.

Respectfully submitted,

MALKAMES LAW OFFICES, by



Mark Malkames, Esquire
I.D. No. 38792
Attorney for Appellant
509 Linden Street
Allentown, PA 18101
Phone: 610-821-8327
Fax: 610-821-5851

Dated: January 7, 2014

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PENNSYLVANIA VENTURE CAPITAL, INC., :
Appellant : No. 1904 C.D. 2013
vs. :
ZONING HEARING BOARD OF THE CITY OF :
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BETHLEHEM AREA SCHOOL DISTRICT, DIANE :
MASON, TIM MASON, LICIA PAULUS, :
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CHAMBERS AND TODD CHAMBERS and :
SPRING GARDEN NEIGHBORHOOD :
ASSOCIATION and BETHLEHEM CITY COUNCIL, :
Appellees :

CERTIFICATION OF SERVICE

I Mark Malkames, Esquire, hereby certify that I am this day serving a copy of Appellant's

Status Report upon the following by First Class Mail on January 7, 2014:

John F. Spirk, Esquire
Jennifer S. Doran, Esquire
Matthew C. Potts, Esquire
Office of the City Solicitor
City of Bethlehem
10 East Church Street
Bethlehem, PA 18018

Erich J. Schock, Esquire
Fitzpatrick Lentz & Bubba
4001 Schoolhouse Lane
P.O. Box 219
Center Valley, PA 18034

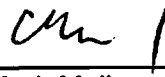
Donald F. Spry, II, Esquire
Avery E. Smith, Esquire
Andrew Theyken Bench, Esquire
King, Spry, Herman, Freund & Faul, LLC
One West Broad Street, Suite 700
Bethlehem, PA 18018

Jeremy F. Clark, Esquire
318 Spring Garden Street
Easton, PA 18042

Christopher T. Spadoni, Esquire
1413 Easton Avenue
P.O. Box 522
Bethlehem, PA 18018

Respectfully submitted,

MALKAMES LAW OFFICES, by



Mark Malkames, Esquire

I.D. No. 38792

Attorney for Appellant

509 Linden Street

Allentown, PA 18101

Phone: 610-821-8327

Fax: 610-821-5851

Dated: January 7, 2014

**STIPULATION AND SETTLEMENT AGREEMENT between PENNSYLVANIA
VENTURE CAPITAL, INC. and 378 DEVELOPMENT L.P. (hereinafter collectively referred to
"Pennsylvania Venture Capital, Inc.") and THE CITY OF BETHLEHEM and THE ZONING
HEARING BOARD OF THE CITY OF BETHLEHEM.**

WHEREAS, Pennsylvania Venture Capital, Inc. is the Appellant in a Land Use Appeal from a decision of the Zoning Hearing Board of the City of Bethlehem filed in Lehigh County, Docket Number 2012-C-3375 which is on appeal to Commonwealth Court to Docket Number 1166 CD 2013; and

WHEREAS, in that appeal Pennsylvania Venture Capital, Inc. requests sign relief with respect to the property known as 825 12th Avenue, Bethlehem, Lehigh County, Pennsylvania, more particularly, variances to construct an off-premises billboard to a size of 25' x 25' erected to a height of 49'; and

WHEREAS, Pennsylvania Venture Capital, Inc. is the Appellant in a Land Use Appeal involving the same property where in a decision of the Zoning Hearing Board of the City of Bethlehem was reversed by the Lehigh County Court in Docket Numbers 2012-C-3540 and 2012-C-3564, and that decision is on appeal by Pennsylvania Venture Capital, Inc. to consolidated Commonwealth Court Docket Numbers 1184 CD 2013 and 1185 CD 2013; and

WHEREAS, that consolidated appeal requests reinstatement of a use variance to establish a Residential Treatment Facility in accordance with the decision of the Zoning Hearing Board on the 825 12th Avenue, Bethlehem, Lehigh County, Pennsylvania premises; and

WHEREAS, Pennsylvania Venture Capital, Inc. is the Appellant in a Land Use Appeal from a decision of the Zoning Hearing Board of the City of Bethlehem filed in the Court of Common Pleas of Northampton County to Docket Number 48CV-2013-1729, and which decision is now on appeal to the Commonwealth Court to Docket Number 1904 CD 2013; and

WHEREAS, that appeal requests special exception approval to establish a Residential Treatment Facility on the premises known as 2349 Linden Street, Bethlehem, Northampton County, Pennsylvania; and

WHEREAS, the parties hereto through mediation before the Honorable Rochelle S. Friedman have agreed to resolve the legal and land use issues contained in said Commonwealth Court appeals upon the terms and conditions of this Stipulation and Settlement Agreement.

NOW THEREFORE, intending to be legally bound, the parties state their agreement as follows:

1. The decision of the Zoning Hearing Board entered in Lehigh County Court 2012-C-3540 and 2013-C-3564, Commonwealth Court Docket Numbers 1184 CD 2013 and 1185 CD 2013 shall be reinstated; the approval granted by that decision shall be subject to the conditions of approval as stated in the decision of the Zoning Hearing Board, with the exception of conditions A-9 regarding signage on the property which shall be governed by this Agreement.
2. The parties agree to the granting of sign relief to Pennsylvania Venture Capital, Inc. with respect to Appeal No. 2012-C-3375, Lehigh County Docket Number, 1166 CD 2013, Commonwealth Court Docket Number, more particularly Pennsylvania Venture Capital, Inc. shall be permitted to establish a off-premises billboard on the 825 12th Avenue property to a size of 25' x 25' and to a height of 49' consistent with the representations, evidence and testimony offered before the Zoning Hearing Board in connection with that appeal.
3. Pennsylvania Venture Capital, Inc. shall withdraw with prejudice the appeal pending in the Northampton County Court of Common Pleas to Docket Number 48CV-2013-1729, Commonwealth Court Docket Number 1904 CD 2013 provided nothing in the withdrawal of that appeal shall prejudice the right of access of Pennsylvania Venture Capital, Inc. to its property or preclude Pennsylvania Venture Capital, Inc. from filing future development plans with respect to the 2349 Linden Street, Bethlehem, Northampton County, Pennsylvania property


consistent with the City Zoning Ordinance and Subdivision and Land Development Ordinance in effect at the time such future plans are filed. Further Pennsylvania Venture Capital, Inc. agrees that it shall not submit a development plan on this parcel with a use that is similar to or associated with a Residential Treatment Facility.

4. Pennsylvania Venture Capital, Inc. shall apply for zoning permits with respect to the residential treatment facility and signage for the 825 12th Avenue property, which permits shall be granted by the City of Bethlehem upon compliance with Ordinance requirements applicable to those uses and/or in accordance with the decision of the Zoning Hearing Board of the City of Bethlehem except as modified for the uses permitted by this Agreement.

Pennsylvania Venture Capital, Inc. shall have a period of five (5) years from the execution of this Stipulation and Settlement Agreement to commence construction for the residential treatment facility and signage for 825 12th Avenue.

5. Upon Pennsylvania Venture Capital, Inc.'s receipt of zoning permits with respect to the uses of the 825 12th Avenue property for a Residential Treatment Facility and to establish off-premises signage, Pennsylvania Venture Capital, Inc. shall withdraw all zoning appeals pending in the Commonwealth Court as identified in this Agreement "with prejudice".


ABRAHAM ATIYEH

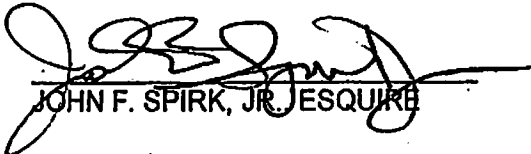

ABRAHAM ATIYEH

PENNSYLVANIA VENTURE CAPITAL,
INC.

BY: 
MARK MALKAMES, ESQUIRE

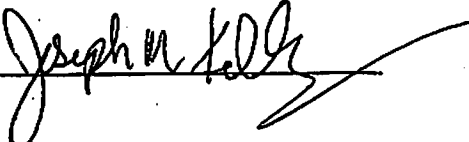
378 DEVELOPMENT L.P.

BY: 
MARK MALKAMES, ESQUIRE


JOHN F. SPIRK, JR., ESQUIRE


ERICH J. SCHOCK, ESQUIRE

CITY OF BETHLEHEM

BY: 

ZONING HEARING BOARD OF THE
CITY OF BETHLEHEM

BY: 