

..Number

000140

..Version

SUBSTITUTE 2

..Reference

..Sponsor

THE CHAIR

..Title

Substitute resolution to grant a special privilege to Phillip J. King, Troy Jahnke, and Timothy J. Brophy, Jr. for a fence and concrete steps for the premises at 2052 North 1<sup>st</sup> Street, in the 6<sup>th</sup> Aldermanic District in the City of Milwaukee.

..Analysis

This resolution grants a special privilege to Phillip J. King, Troy Jahnke, and Timothy J. Brophy, Jr. for a fence and concrete steps for the premises at 2052 North 1<sup>st</sup> Street.

..Body

Whereas, Timothy Brophy, Sr., Timothy Brophy, Jr. and Charles Miller III requested permission to keep a fence in the public right-of-way in 2000; and

Whereas, The resolution was held to the call of the chair at the Public Improvements Committee meeting on June 21, 2000 due to issues with the owners of the property, Timothy Brophy, Sr., Timothy Brophy, Jr. and Charles Miller III; and

Whereas, The premises at 2052 North 1<sup>st</sup> Street is a condominium and Phillip J. King and Troy Jahnke are new owners of two of the three units in the building and the third unit is currently for sale; and

Whereas, This special privilege resolution grants a special privilege to the individual condo owners because there is no legally recorded condominium association; and

Whereas, A special privilege is required for the fence because the property does not meet the requirements of Section 245-4.5 Placement of Fences in Street Right-of-Way Abutting Residential Property and Public Sidewalk because the property has more than two dwelling units; and

Whereas, A site visit revealed the presence of concrete steps in the public right-of-way; and

Whereas, Said items may only legally encroach into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that, Phillip J. King, Troy Jahnke, and Timothy J. Brophy, 2052 North 1<sup>st</sup> Street, Unit 1, Milwaukee, Wisconsin 53212 is hereby granted the following special privileges:

1. To construct and maintain a 4-foot tall fence in the east, 22-foot wide sidewalk area of North 1<sup>st</sup> Street. Said is located an average of 5 feet 8 inches west of the eastline of North 1<sup>st</sup> Street and commences approximately 97 feet 11 inches south of the southline of East Lloyd Street and extends north 82 feet. There is then a 7-foot 10-inch wide break in the fence at the location of concrete steps. The fence then continues starting at a point approximately 8 feet 1 inch south of the southline of East Lloyd Street and extends north 6 feet 5 inches where it meets a portion of the fence that angles 45 degrees between North 1<sup>st</sup> Street and East Lloyd Street. Total length of the fence in North 1<sup>st</sup> Street is 88 feet 5 inches.
2. To construct and maintain a 4-foot tall fence in the south, 20-foot wide sidewalk area of East Lloyd Street. Said fence is an average of 5 feet 1 inch north of the northline of East Lloyd Street and commences

at the end of the aforementioned angled section of fence at a point approximately 2 feet 6 inches west of the eastline of North 1<sup>st</sup> Street and extends east 72 feet 4 inches. There is then a 5-foot 8-inch long break in the fence. The fence continues east starting at a point approximately 75 feet 6 inches east of the eastline of North 1<sup>st</sup> Street for 8 feet 2 inches. Total length of said fence is 80 feet 6 inches.

3. To keep and maintain a set of concrete steps in the east, 22-foot wide sidewalk area of North 1<sup>st</sup> Street centered approximately 12 feet south of the southline of East Lloyd Street. Said steps project 4 feet into the public way for a length of 7 feet 10 inches.

Said above-mentioned items shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services. All necessary permits shall have been obtained prior to the granting of this special privilege.

Said items shall be maintained or removed from the public right-of-way, at such future time as they are no longer needed, to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantees, Phillip J. King, Troy Jahnke, and Timothy J. Brophy, Jr., shall:

1. Become primarily liable for damages to persons or property by reason of the granting of this special privilege.
2. File with the City Clerk a bond of a surety company duly incorporated in the State of Wisconsin, or duly licensed to do business in this State, in the sum of \$5,000.00 such bond to be approved by the City Attorney. This applicant shall also file with the City Clerk a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$50,000 covering bodily injury to any one person and \$100,000 covering bodily injury to more than one person in any one accident and \$20,000 covering property damage to any own owner on the area or areas included within the special privilege and naming the City of Milwaukee as an insured. Both bond and insurance policy shall provide that they shall not be cancelled until after at least thirty days' notice in writing to the City Clerk.
3. Pay to the City Treasurer an annual fee, which has an initial amount of \$223.49. The subsequent annual fee is subject to change pursuant to the annual fee schedule in effect at the time of annual billing.
4. Whenever this special privilege is discontinued for any reason whatsoever, including public necessity whenever so ordered by resolution adopted by the Common Council not only remove all construction work executed pursuant to this special privilege, but shall also restore to its former condition and to the approval of the Commissioner of Public Works and curb, pavement or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Such grantee shall be entitled to no damages due to the alteration and/or removal for such purposes.
5. Waive the right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes (1999), or the amount of the annual fixed fee, payable on or before July 1<sup>st</sup> of each year.
6. Put this special privilege into use within one year after approval by the Common Council of the City of Milwaukee; failing to do so in the time specified, the Commissioner of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

7. Apply for a special privilege amendment whenever any of the owner's changes or whenever a condominium association is legally recorded.

..Requestor

Department of Public Works

..Drafter

Infrastructure Services Division

MDL:lja

October 13, 2006

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