



## Legislation Text

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**File #: 040874, Version: 1**

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040874

SUBSTITUTE

970736

THE CHAIR

Substitute resolution amending a special privilege for change of ownership to Dermond Associates, LLC for encroachment into the public right-of-way of a concrete stairway and to grant permission for a new building façade, an excess door swing, non-code compliant awnings, non-code compliant fire escape balconies, waste dumpsters, and security cameras for the building at 753 North Water Street in the 4<sup>th</sup> Aldermanic District of the City of Milwaukee.

This resolution grants an amended special privilege for change of ownership to Dermond Associates, LLC for encroachment into the public right-of-way of a concrete stairway and grants permission for a new brick building façade, an excess door swing, seven non-code compliant fixed awnings, two non-code compliant fire escape balconies, three waste dumpsters and three security cameras abutting 753 North Water Street.

Whereas, Michael and Lynn Short requested a special privilege for a concrete stairway, building façade, and sign projection; and

Whereas, Permission for said items was granted in 1997 under Common Council Resolution File Number 970736; and

Whereas, Dermond Associates, LLC now owns the property; and

Whereas, Dermond Associates, LLC has removed the sign and replaced the previous building façade with a new brick building façade, changing the limits of the building façade projection into the public right-of-way; and

Whereas, A fire escape was relocated from the East Mason Street building face to the North Front Street building face and a second fire escape balcony was found in North Front Street; and

Whereas, Both fire escape balconies are non-code compliant because they are not, at minimum, 10 feet above grade; and

Whereas, A site visit also revealed the presence of an excess door swing, seven non-code compliant fixed awnings, three security cameras and three waste dumpsters in the public right-of-way; and

Whereas, Said items, which were not previously granted permission to be in the public right-of-way, may only legally encroach into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; and

Whereas, For the liability to be formally transferred to the current owner for the concrete stairway, the Common Council needs to adopt an amending resolution; now therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Common Council File Number 970736 is hereby rescinded; and be it

Further Resolved, That Dermond Associates, LLC, P.O. Box 240123, Milwaukee, WI 53224 is hereby granted the following special privileges:

1. To keep and maintain a concrete stairway to the basement in the 17-foot wide, north sidewalk area of East Mason Street. The stairway projects 4 feet 3 inches into East Mason Street for a length of 10 feet. The stairway begins approximately 57 feet west of the westline of North Water Street. A door swings out over the stairway landing, which is 4 feet 10 inches below sidewalk grade.
2. To construct and maintain new brick building façade which projects between 0.3 and 0.4 feet into the west sidewalk area of North Water Street. The brick building façade commences at a point approximately 7 feet north of the north line of East Mason Street and extends north 48 feet 4 inches. The west sidewalk area of North Water Street varies in width between 7 feet 6 inches and 15 feet.
3. To construct and maintain one excess door swing encroachment centered approximately 46 feet north of the north line of East Mason Street. Said door swing, when fully open, projects 3 feet 6 inches into the public right-of-way in excess of the 12 inches permissible under Section 245-4.8 of the Milwaukee Code of Ordinances.
4. To construct and maintain seven fixed awnings consisting of arched steel roofs, 18 inches in depth, sloping 0° from the horizontal which is less than the minimum 30° from the horizontal under Section 245-7.6-d of the Milwaukee Code of Ordinances. Four of the fixed awnings are located along the North Water Street building face and vary from 9 feet 6 inches to 10 feet 6 inches in length. Three of the fixed awnings are located along the East Mason Street building face and vary from 12 feet to 15 feet 2 inches in width.
5. To construct and maintain two fire escape balconies in the 25-foot right-of-way of North Front Street. The southerly balcony, which is only 9 feet 5 inches above grade, is located at a point approximately 10 feet north of the northline of East Mason Street, is 3 feet 6 inches in length and projects 3 feet 6 inches into the public right-of-way. The northerly balcony, which is only 8 feet 1 inch above sidewalk grade, is located at a point approximately 24 feet north of the northline of East Mason Street, is 6 feet 9 inches in length and projects 1-foot 6 inches into the public way. Said fire escape balconies are less than the minimum 10 feet above grade required under Section 245-4.9 of the Milwaukee Code of Ordinances.
6. To keep, use and maintain three commercial waste dumpsters in the 25-foot wide public right-of-way of North Front Street approximately 10 feet north of the northline of East Mason Street. Two dumpsters are approximately 2 feet 5 inches long and project 2 feet 5 inches into the public way. The third dumpster is approximately 5 feet long and projects 3 feet 8 inches into the public way.
7. To keep and maintain three security cameras. Said cameras are approximately 6 inches long and 2 inches in diameter. Two cameras are located at the northerly corner of the North Water Street building face approximately 10 feet above sidewalk grade. The third camera is located along the North Front Street building face 1-foot 3 inches north of the northline of East Mason Street approximately 10 feet 9 inches above sidewalk grade.

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 grantee Dermond Associates, LLC., 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 \$10,000.00 such bond to be approved by the City Attorney. The 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 \$50,000.00 covering bodily injury to any one person and \$100,000.00 covering bodily injury to more than one person in any one accident and \$20,000.00 covering property damage to any one 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 canceled 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 \$313.02. 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 any 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 the Department of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Department of Public works  
Infrastructure Services Division

MDL:lja

May 25, 2006

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