



## Legislation Text

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**File #: 141079, Version: 1**

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141079

SUBSTITUTE 1

THE CHAIR

Substitute resolution granting a special privilege to LPT 40 LLC to construct and maintain a retaining wall in the public right-of-way for the premises at 1959-65 North Prospect Avenue, in the 3<sup>rd</sup> Aldermanic District.

This resolution grants a special privilege to LPT 40 LLC to construct and maintain a concrete block retaining wall in the public right-of-way for the premises at 1959-65 North Prospect Avenue.

Whereas, The applicant is requesting permission to construct and maintain a concrete block retaining wall in the public right-of-way; and

Whereas, Said retaining wall 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 LPT 40 LLC, 1007 North Cass Street, Milwaukee, WI 53202 is hereby granted the following special privilege:

To construct and maintain a 1-foot 1-inch wide, concrete block retaining wall at the northwest corner of East Irving Place and North Prospect Avenue. Said retaining wall, which projects 5 feet into the west, 18-foot wide sidewalk area of North Prospect Avenue, commences approximately 1 foot 6 inches south of the northline of East Irving Place and extends north 139 feet 6 inches, then turns and extends west 5 feet to the westline of North Prospect Avenue. The retaining wall also projects 2 feet 7 inches into the north, 16-foot wide sidewalk area of East Irving Place. The East Irving Place section of retaining wall commences approximately 5 feet east of the westline of North Prospect Avenue and extends west 17 feet 3 inches. Total length of said retaining wall is 160 feet 6 inches.

Said above-mentioned retaining wall 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 retaining wall shall be maintained or removed from the public right-of-way, at such future time as it is 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, LPT 40 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 Commissioner of Public Works a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident and \$10,000 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. The insurance policy shall provide that it shall not be cancelled until after at least thirty days' notice in writing to the Commissioner of Public Works.
3. Pay to the City Treasurer an annual fee, which has an initial amount of \$121.08. 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.

Department of Public Works

Administration Division

MICHAEL LOUGHRAN/DAWN SCHMIDT/C. MURPHY

July 31, 2015