

**CITY OF BALTIMORE
COUNCIL BILL 06-0519
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Public Works)
Introduced and read first time: September 25, 2006
Assigned to: Highways and Franchises Subcommittee

REFERRED TO THE FOLLOWING AGENCIES: Planning Commission, Department of Housing and Community Development, Department of Public Works, Department of Transportation, Fire Department, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Structural Projection Over Bed of**
3 **Key Highway - 1402 Key Highway**

4 FOR the purpose of granting a franchise to J. Bryan Erb, his tenants, successors, and assigns, to
5 construct, use, and maintain a 4-story town house, subject to certain terms, conditions, and
6 reservations; and providing for a special effective date.

7 BY authority of
8 Article VIII - Franchises
9 Baltimore City Charter
10 (1996 Edition)

11 **Recitals**

12 Mr. J. Bryan Erb is the owner of the properties known as 1400 and 1402 Key Highway. Mr.
13 Erb will construct a 4 story town house on each of the Key Highway properties. The town
14 houses will share a common wall, and both town houses will have garages loading on the Anchor
15 Street side of the properties.

16 The design of the town houses will include a shared curving exterior wall on the Key
17 Highway side of the buildings.

18 A portion of the 1402 Key Highway town house, the subject of this Ordinance, will project
19 over and above portions of the Key Highway right-of-way.

20 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
21 franchise or right is granted to J. Bryan Erb, his tenants, successors, and assigns (collectively, the
22 “Grantee”) to construct, use, and maintain, at Grantee’s own cost and expense, and subject to the
23 terms and conditions of this Ordinance, a structural projection on the building to be built on the
24 property known as 1402 Key Highway, located within an aerial easement area more particularly
25 described as follows:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 06-0519

1 Located along the northerly property line of 1402 Key Highway, along Key
2 Highway at the Second, Third, and Fourth floors of the building is a projecting,
3 curving wall. The projection over the Key Highway right-of-way begins
4 approximately 20 feet from the northeasterly corner of the building. The 3 story
5 projection begins at 0.0 feet and proceeds in an arc to a projection of
6 approximately 3.0 feet at the common property line of 1402 and 1400 Key
7 Highway, for a distance of approximately 20 feet 8 inches. The projection will
8 begin approximately 9.5 feet above the street bed at its lowest point, and will have
9 a maximum top elevation of 40 feet, more or less. The projection contains
10 approximately 40 square feet in plane for each of the 3 floors, for a total of 120
11 square feet.

12 **SECTION 2. AND BE IT FURTHER ORDAINED,** That to become effective, the franchise or right
13 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
14 6 months after the effective date of this Ordinance.

15 **SECTION 3. AND BE IT FURTHER ORDAINED,** That as compensation for the Franchise, the
16 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$_____ a
17 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
18 charge must be paid annually, at least 30 days before the initial and each renewal term of the
19 Franchise.

20 **SECTION 4. AND BE IT FURTHER ORDAINED,** That:

21 (a) The initial term of the Franchise is 1 year, commencing on the effective date of this
22 Ordinance. Unless sooner terminated as provided in this Ordinance, the Franchise will
23 automatically renew, without any action by either the Mayor and City Council of Baltimore or
24 the Grantee, for 24 consecutive 1-year renewal terms. Except as otherwise provided in this
25 Ordinance, each renewal term will be on the same terms and conditions as the initial term. The
26 maximum duration for which the Franchise may operate, including the initial and all renewal
27 terms, is 25 years.

28 (b) Either the Mayor and City Council of Baltimore, acting by and through the Director of
29 Public Works, or the Grantee may cancel the Franchise as at the end of the initial or any renewal
30 term by giving written notice of cancellation to the other at least 90 days before the end of that
31 term.

32 **SECTION 5. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore,
33 acting by and through the Board of Estimates, may increase or decrease the annual franchise
34 charge by giving written notice of the increase or decrease to the Grantee at least 150 days
35 before the end of the original or renewal term immediately preceding the renewal term to which
36 the increase or decrease will first apply. The new franchise charge will apply to all subsequent
37 annual renewal terms, unless again increased or decreased in accordance with this section.

38 **SECTION 6. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
39 expressly reserves the right at all times to exercise, in the interest of the public, full municipal
40 superintendence, regulation, and control over and in respect to all matters connected with the
41 Franchise and not inconsistent with the terms of this Ordinance.

42 **SECTION 7. AND BE IT FURTHER ORDAINED,** That the Grantee, at its own cost and expense,
43 shall maintain in good condition and in compliance with all applicable laws and regulations of

Council Bill 06-0519

1 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
2 structures shall be at all times subject to the regulation and control of the Commissioner of
3 Housing and Community Development and the Director of Public Works. If any structure for
4 which the Franchise is granted must be readjusted, relocated, protected, or supported to
5 accommodate a public improvement, the Grantee shall pay all costs and expenses in connection
6 with the readjustment, relocation, protection, or support.

7 **SECTION 8. AND BE IT FURTHER ORDAINED,** That at the option of the Mayor and City
8 Council of Baltimore, acting by and through the Director of Public Works, the Grantee's failure
9 to comply with any term or condition of this Ordinance constitutes a forfeiture of the Franchise.
10 Immediately on written notice to the Grantee of the exercise of this option, the Franchise
11 terminates. Once so terminated, only an ordinance of the Mayor and City Council of Baltimore
12 may waive the forfeiture or otherwise reinstate the Franchise.

13 **SECTION 9. AND BE IT FURTHER ORDAINED,** That at any time and without prior notice, the
14 Mayor of Baltimore City may revoke the Franchise if, in the Mayor's judgment, the public
15 interest, welfare, safety, or convenience so requires. Immediately on written notice to the
16 Grantee of the exercise of this right, the Franchise terminates.

17 **SECTION 10. AND BE IT FURTHER ORDAINED,** That on cancellation, expiration, forfeiture,
18 revocation, or other termination of the Franchise for any reason, the Grantee shall remove all
19 structures for which the Franchise is granted. The removal of these structures shall be
20 (i) undertaken at the cost and expense of the Grantee, without any compensation from the Mayor
21 and City Council of Baltimore, (ii) made in a manner satisfactory to the Commissioner of
22 Housing and Community Development and the Director of Public Works, and (iii) completed
23 within the time specified in writing by the Director of Public Works.

24 **SECTION 11. AND BE IT FURTHER ORDAINED,** That the Grantee is liable for and shall
25 indemnify and save harmless the Mayor and City Council of Baltimore against all suits, losses,
26 costs, claims, damages, or expenses to which the Mayor and City Council of Baltimore is at any
27 time subjected on account of, or in any way resulting from, (i) the presence, construction, use,
28 operation, maintenance, alteration, repair, location, relocation, or removal of any of the
29 structures for which the Franchise is granted, or (ii) any failure of the Grantee, its officers,
30 employees, or agents, to perform promptly and properly any duty or obligation imposed on the
31 Grantee by this Ordinance.

32 **SECTION 12. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
33 is enacted.