

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 06-0333

Introduced by: The Council President
At the request of: The Administration (Department of Public Works)
Introduced and read first time: February 6, 2006
Assigned to: Highways and Franchises Subcommittee

Committee Report: Favorable with amendments
Council action: Adopted
Read second time: June 12, 2006

AN ORDINANCE CONCERNING

**Franchise – Private, Single-Story Building Addition Projecting
into a Portion of the Eastern Avenue Right-of-Way**

FOR the purpose of granting a franchise to Gia A. Blattermann, Eric B. Blattermann, and Steven C. Blattermann, the owners or contract purchasers, to ~~construct~~, use; and maintain a single-story building addition projecting into a portion of the Eastern Avenue right-of-way, attached to and extending from the southern exterior wall of 410 South High Street, subject to certain terms, conditions, and reservations; and providing for a special effective date.

By authority of
Article VIII - Franchises
Baltimore City Charter
(1996 Edition)

Recitals

The 410 South High Street building is located on the corner of South High Street and Eastern Avenue in the Little Italy community. The building has housed a restaurant carry-out business at this location for approximately 70 years.

The current building owners are selling the property to new owners who will continue operating a restaurant business there. In preparing for the sale, it was discovered that a one-story addition built in 1986, by persons who owned the building prior to the current owners, did not have a franchise for the structure to occupy a portion of the Eastern Avenue right-of-way. Records pertaining to the single-story addition reveal that appropriate permits and a right-of-entry were obtained, but the necessary last step to obtain a franchise was never pursued. This legislation would complete the process begun 20 years ago.

The single-story addition projects into the sidewalk area of the Eastern Avenue right-of-way approximately 10 feet from the southern property line and parallels the existing building for a distance of approximately 53 feet. The entire approximately 530 square foot structure is in the Eastern Avenue right-of-way.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE**, That a
2 franchise or right is granted to Gia A. Blattermann, Eric B. Blattermann, and Steven C.
3 Blattermann, its tenants, successors, and assigns (collectively, the “Grantee”) to ~~construct~~; use;
4 and maintain, at Grantee’s own cost and expense, and subject to the terms and conditions of this
5 Ordinance, a single-story building addition, enclosing an approximately 530 square foot portion
6 of the Eastern Avenue right-of-way, more particularly described as follows:

7 All that piece or parcel of land lying, situate and being in Ward 3, Section 05,
8 Block 1429, of Baltimore City, Maryland and beginning at a point on the north
9 side of Eastern Avenue, distant westerly 3 feet, more or less, measured along the
10 north side of Eastern Avenue from the southwest side of South High Street, and
11 running thence binding on the north side of said Eastern Avenue, Westerly 53
12 feet, more or less, to the south side of a 2.4 foot concrete alley; thence
13 Southeasterly 10 feet, more or less; thence by a straight line and being distant 10
14 feet, more or less, from the north side of said Eastern Avenue, Easterly 53 feet,
15 more or less; thence by a straight line, Northwesterly 10 feet, more or less, to the
16 place of the beginning,

17 containing approximately 530 square feet in plane, or 0.012 acres, more or less.

18 **SECTION 2. AND BE IT FURTHER ORDAINED**, That to become effective, the franchise or right
19 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
20 6 months after the effective date of this Ordinance.

21 **SECTION 3. AND BE IT FURTHER ORDAINED**, That as compensation for the Franchise, the
22 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$5,618 a
23 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
24 charge must be paid annually, at least 30 days before the initial and each renewal term of the
25 Franchise.

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

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

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

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

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

5 **SECTION 7. AND BE IT FURTHER ORDAINED,** That the Grantee, at its own cost and expense,
6 shall maintain in good condition and in compliance with all applicable laws and regulations of
7 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
8 structures shall be at all times subject to the regulation and control of the Commissioner of
9 Housing and Community Development and the Director of Public Works. If any structure for
10 which the Franchise is granted must be readjusted, relocated, protected, or supported to
11 accommodate a public improvement, the Grantee shall pay all costs and expenses in connection
12 with the readjustment, relocation, protection, or support.

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

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

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

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

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

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City