

**CITY OF BALTIMORE
COUNCIL BILL 06-0518
(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 Projections Over Beds of**
3 **Anchor Street and Key Highway - 1400 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, and an upper story overhang projecting from the 1400 Key
18 Highway property, on the Anchor Street side of the building.

19 Portions of the 1400 Key Highway town house, the subject of this Ordinance, will project
20 over and above portions of the Key Highway and Anchor Street rights-of-way.

21 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
22 franchise or right is granted to J. Bryan Erb, his tenants, successors, and assigns (collectively, the
23 “Grantee”) to construct, use, and maintain, at Grantee’s own cost and expense, and subject to the
24 terms and conditions of this Ordinance, structural projections on the building to be built on the
25 property known as 1400 Key Highway, located within aerial easement areas more particularly
26 described as follows:

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

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1 Located along the northerly property line of 1400 Key Highway, along Key
2 Highway, at the Second, Third, and Fourth floors of the building is a projecting,
3 curving wall. The 3-story projection over the Key Highway right-of-way projects
4 approximately 3.0 feet at the common property line of 1402 and 1400 Key
5 Highway, and proceeds in an arc to 0.0 feet at a point approximately 19 feet 2
6 inches from the northwesterly corner of the building, for a distance of
7 approximately 21 feet 4 inches. The projection will begin approximately 9.5 feet
8 above the street bed at its lowest point, and will have a maximum top elevation of
9 40 feet, more or less. The projection contains approximately 42 square feet in
10 plane for each of the 3 floors, for a total of 126 square feet.

11 Located along the westerly property line of 1400 Key Highway, along Anchor
12 Street, the Second, Third and Fourth floors of the building project beyond the
13 property line. The 3-story projection over the Anchor Street right-of-way begins
14 at the westerly corner of the building, projecting approximately 2 feet 10.5 inches
15 from the westerly property line, extending parallel to the property line, for a
16 distance of approximately 14.0 feet. The projection will begin approximately 8
17 feet 9 inches above the street bed at its lowest point, and will have a maximum
18 top elevation of 40 feet, more or less. The projection contains approximately 39
19 square feet in plane for each of the 3 floors, for a total of 117 square feet.

20 **SECTION 2. AND BE IT FURTHER ORDAINED,** That to become effective, the franchise or right
21 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
22 6 months after the effective date of this Ordinance.

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

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

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

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

40 **SECTION 5. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore,
41 acting by and through the Board of Estimates, may increase or decrease the annual franchise
42 charge by giving written notice of the increase or decrease to the Grantee at least 150 days
43 before the end of the original or renewal term immediately preceding the renewal term to which

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1 the increase or decrease will first apply. The new franchise charge will apply to all subsequent
2 annual renewal terms, unless again increased or decreased in accordance with this section.

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

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

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

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

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

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

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