



APPLICATION FOR APPEAL

Saint Paul City Council – Legislative Hearings

RECEIVED

AUG 18 2016

CITY CLERK

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Saint Paul, Minnesota 55102
Telephone: (651) 266-8585

We need the following to process your appeal:

- \$25 filing fee (non-refundable) (payable to the City of Saint Paul) (if cash: receipt number _____)
 - Copy of the City-issued orders/letter being appealed
 - Attachments you may wish to include
 - This appeal form completed
 - Walk-In OR Mail-In
- for abatement orders only: Email OR Fax

<p>HEARING DATE & TIME (provided by Legislative Hearing Office) Tuesday, <u>Sept. 6</u></p> <p>Time <u>1:30 p.m.</u></p> <p>Location of Hearing: <u>Room 330 City Hall/Courthouse</u></p>
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Address Being Appealed:

Number & Street: 180 5th Street East City: St. Paul State: MN Zip: 55101

Appellant/Applicant: Talon First Trust, LLC / Jackson I LLC Email jason.lien@maslon.com

Phone Numbers: Business (612) 672-8319 Residence _____ Cell (651) 283-0607

Signature: [Signature] Date: 8/18/2016

Jason Lien, Attorney

Name of Owner (if other than Appellant): _____

Mailing Address if Not Appellant's: _____

Phone Numbers: Business _____ Residence _____ Cell _____

What Is Being Appealed and Why? *Attachments Are Acceptable*

- Vacate Order/Condemnation/
- Revocation of Fire C of O _____
- Summary/Vehicle Abatement _____
- Fire C of O Deficiency List/Correction Please see attachments
- Code Enforcement Correction Notice _____
- Vacant Building Registration _____
- Other (Fence Variance, Code Compliance, etc.) _____

Jason Lien

Direct Dial: (612) 672-8319

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jason.lien@maslon.com

August 18, 2016

Legislative Hearing Officer
Office of the City Clerk
310 City Hall
15 W. Kellogg Blvd.
St. Paul, MN 55102

Re: Talon First Trust, LLC Appeal from Fire Correction Notice No. 13287

Dear Sir or Madam:

I represent Talon First Trust, LLC (“Talon”), which owns 180 East 5th Street in St. Paul, MN. Talon appeals two deficiencies noted in the August 8, 2016 Fire Inspection Correction Notice, Reference no. 13287, attached to this letter as **Exhibit A**, which is mistakenly addressed to the previous owner, Jackson I, LLC.

Talon hereby appeals deficiencies 99 and 105, which address fireproofing and renovations located in an areaway outside the property (the “Areaway”). This is not the first time the Areaway has been the topic of discussion with the Department of Safety and Inspections, which has taken inconsistent positions in the past few years on whether my client and/or the prior owner, Jackson I, LLC, are responsible for correcting deficiencies in the Areaway that represent deficiencies 99 and 105. Attached as **Exhibit B** to this letter please find my February 18, 2016 correspondence to Fire Inspector Kris Skow-Fiske, which requested the Department of Safety and Inspections to clarify its current position regarding these alleged deficiencies in the Areaway. This letter set out in full why Talon is not responsible for correcting these deficiencies given that the Areaway is a public right-of-way and the improvements at issue were completed by Metropolitan Council. However, I received no response from Fire Inspector Skow-Fiske or any other representative from the Department of Safety and Inspections. Instead, my client received the August 8, 2016 notice from Fire Inspector Skow-Fiske that contained a total of 134 deficiencies – a substantial increase in the number of deficiencies compared to the prior year’s inspection. While this action appears to be retaliatory given the sheer volume of noted deficiencies compared to prior years, Talon takes all noted deficiencies seriously and is in the process of addressing them with its property manager and tenants prior to the re-inspection on October 7, 2016. However, Talon appeals deficiencies 99 and 105.

The basis of Talon’s appeal of deficiencies 99 and 105 is set forth in detail in my February 18 letter and enclosures attached as **Exhibit B**. In summary, correcting the contested deficiencies would require Talon to perform costly structural renovations to the Areaway outside the property it owns at 180 East 5th Street, which by law is a public right-of-way owned by the City of St. Paul. In the past, Talon’s predecessor maintained the Areaway under an Encroachment Permit, but the City of St. Paul via the Metropolitan Council reclaimed the Areaway in 2010 to

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accommodate the incoming light rail line. Metropolitan Council then performed improvements to the Areaway as part of the light rail construction. As conclusively demonstrated by the enclosures to my February 18 letter attached as **Exhibit B**, Talon no longer owns or maintains any property or improvements located in the Areaway. Talon's predecessor abandoned the Areaway and removed all of its improvements at its substantial expense after it was instructed to do so by Met Council, as was its legal obligation. All current property and improvements located in the Areaway that Fire Inspector Skow-Fiske takes issue with were completed and maintained by the Metropolitan Council or owned by the City. Since the Areaway is a public right-of-way and Talon does not own the property or improvements in the Areaway, Talon cannot be legally required to make any additional modifications to this property or its improvements. In addition, requiring Talon to make modifications to this public right-of-way adjacent to the light rail raises a host of other issues that would expose it to substantial liability. The obligation to make any modifications to the Areaway and these improvements falls on the Metropolitan Council, as owner of the improvements, or the City, as owner of the public right-of-way.

For these reasons and those set forth more fully in my February 18 letter and enclosures attached as **Exhibit B**, Talon respectfully requests that deficiencies 99 and 105 be removed from Fire Correction Notice No. 13287. Thank you for your consideration in this matter.

Sincerely,



Jason Lien

cc: Talon First Trust, LLC
Gary Buckley

JL/kw

Enclosures

4852-8818-1815

Exhibit A



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-8951
Web: www.stpaul.gov/dsi

August 8, 2016

JACKSON I LLC
180 5TH ST E SUITE 160
ST PAUL MN 55101

FIRE INSPECTION CORRECTION NOTICE

RE: 180 5TH ST E
Ref. #13287

Dear Property Representative:

Your building was inspected on August 8, 2016 for the renewal of your Fire Certificate of Occupancy. Approval for occupancy will be granted upon compliance with the following deficiency list. The items on the list must be corrected prior to the re-inspection date.

A re-inspection will be made on October 7, 2016 at 9:00 AM.

Failure to comply may result in a criminal citation or the revocation of the Fire Certificate of Occupancy. The Saint Paul Legislative Code requires that no building shall be occupied without a Fire Certificate of Occupancy. The code also provides for the assessment of additional re-inspection fees.

YOU WILL BE RESPONSIBLE FOR NOTIFYING TENANTS IF ANY OF THE FOLLOWING LIST OF DEFICIENCIES ARE THEIR RESPONSIBILITY.

DEFICIENCY LIST

1. 10TH FLOOR - SW ELECTRICAL CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Repair hole in the ceiling.
2. 10TH FLOOR NW ELECTRICAL CLOSET - NFPA 13 (2002) 4.1 - Provide sprinkler coverage in the missing room or area.
-Contact a licensed sprinkler contractor to provide missing coverage. This work will require a permit.
3. 10TH FLOOR SW ELECTRICAL - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Remove exposed insulation or cover it up per the manufactures guidelines.

4. 10TH FLOOR SW JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
5. 12TH FLOOR - COMPUTER ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
6. 12TH FLOOR - IT/COMPUTER ROOM - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove all extension cords. All power strips shall plug directly into an outlet and not into another power strip or extension cord.
7. 12TH FLOOR - NW ELECTRICAL ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
8. 12TH FLOOR - OLD COMPUTER ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
9. 12TH FLOOR - STORAGE OFF OF PLANOGRAM - NFPA 13 (2002) 8.6.3.4.1 - Relocate the sprinklers so that they are at least 6' apart.
-Contact a licensed sprinkler contractor to relocate sprinkler heads. This work will require a permit.
10. 12TH FLOOR - SW JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling/walls in an approved manner.
-Replace access panel.
11. 12TH FLOOR - THE WILMOT TRADING POST - MSFC 703 - The fire door must not be obstructed or impaired from its proper operation at any time.
-Replace missing fire doors.
12. 12TH FLOOR - SW POD AREA - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
13. 13TH FLOOR - EAST IT NEXT TO 1341 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
14. 13TH FLOOR - THE SUMMIT KITCHEN - NFPA 13 6.2.7.2 – Escutcheons and cover plates shall be part of a listed sprinkler assembly.
-Replace missing escutcheon.
15. 13TH FLOOR - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.

16. 13TH FLOOR - SW ELECTRICAL CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair the hole in the wall.
17. 13TH FLOOR - SW LIGHT BULB/WATER HEATER ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
18. 13TH FLOOR STAIRWELL - MSFC 901.6 - Provide approved permanent label on the standpipe at each hose connection indicating whether it is wet or dry.
19. 14TH FLOOR ELEVATOR ROOM - NORTH - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
20. 14TH FLOOR FAN ROOM - NORTH - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
21. 14TH FLOOR PENTHOUSE - NORTH - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling/walls in an approved manner.
-Repair holes in the ceiling and walls.
22. 14TH FLOOR PENTHOUSE - SOUTH - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling/walls in an approved manner.
-Repair holes in the ceiling and walls.
23. 1ST FLOOR BACK HALL BY CASSIES - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace ceiling tiles with holes.
24. 1ST FLOOR BACK HALL RESTROOM BY CASSIES - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace ceiling tiles with holes in them.
25. 1ST FLOOR BSNF PHONE/ELECTRICAL ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair holes in the walls.
26. 1ST FLOOR CASSIES - NFPA 13 6.2.7.2 – Escutcheons and cover plates shall be part of a listed sprinkler assembly.
-Replace missing escutcheons near the hood.
27. 1ST FLOOR CASSIES BEHIND APPLIANCES - SPLC 34.10 (5), 34.33 (4), 34.16 - Provide and maintain interior in a clean and sanitary condition.

28. 1ST FLOOR CASSIES HOOD CLEANING - MSFC 904.11.6.3 - Contact a qualified hood and duct cleaning service company to clean and service grease duct vent for commercial cooking equipment. Provide documentation as proof of compliance. Maintain venting system in a clean and sanitary condition.
29. 1ST FLOOR CASSIES HOOD SUPPRESSION - MSFC 904.11.6.4 - Provide required six month service of the hood and duct fire suppression system. Provide documentation from qualified contractor.
-Provide report.
30. 1ST FLOOR CATERING KITCHEN - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
31. 1ST FLOOR DOCK FLAM ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
32. 1ST FLOOR FAN ROOM FOR LOBBY - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair hole in wall above door.
33. 1ST FLOOR JANITORS ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling.
34. 1ST FLOOR MAIL ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
35. 1ST FLOOR MENS RESTROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair block wall in men's restroom janitors closet.
36. 1ST FLOOR NORTH FREIGHT EXIT - MSFC 1003.3.1.8 - Remove unapproved locks from the exit doors. The door must be open able from the inside without the use of keys or special knowledge or effort.
-Remove slide bolt from door.
37. 1ST FLOOR SALT ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair holes in the walls.
38. 1ST FLOOR STE 160 JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Replace missing access panel.

39. 1ST FLOOR STE 160 SERVER ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Replace missing access panel.
40. 1ST FLOOR STORAGE BY CASSIES - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
41. 1ST FLOOR WREATH STORAGE - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Provide an access panel on wall in wreath storage.
42. 2DN FLOOR SKYWAY ELECTRICAL - NEC 110-26 - Provide and maintain a minimum of 36 inches clearance in front of all electrical panels.
-Remove chairs.
43. 2ND FLOOR BUILDING STORAGE - MSFC 703 - Repair and maintain the required fire resistive construction with approved materials and methods. This work may require a permit(s). Call DSI at (651) 266-9090.
-Repair damaged column.
44. 2ND FLOOR BUILDING STORAGE - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace ceiling grid or remove all storage.
45. 2ND FLOOR HALL ATTIC - MSFC 315.3.4 – Attic, under-floor and concealed spaces used for storage shall be protected on the storage side as required for 1-hour fire resistance-rated construction. Openings shall be protected by assemblies that are self-closing and are of non-combustible construction or solid wood core not less than 1.75 inches in thickness. Storage shall not be placed on exposed joists.
-Remove all storage.
46. 2ND FLOOR HALL ATTIC - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cords.
47. 2ND FLOOR JANITORS CLOSET BY MENS RESTROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
48. 2ND FLOOR LIGHT STORAGE - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Patch holes in the wall.
49. 2ND FLOOR OUTSIDE OF REJEWEL - NFPA 13 6.2.7.2 – Escutcheons and cover plates shall be part of a listed sprinkler assembly.
-Replace missing sprinkler cover plate.

50. 2ND FLOOR PER-KE-LAT - REGISTER AREA - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove all extension cords and all power strips shall plug directly into an outlet and not into another power strip or extension cord.
51. 2ND FLOOR PER-KE-LAT - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cord on lamp.
52. 2ND FLOOR PER-KE-LAT - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
53. 2ND FLOOR RSS STORE - MSFC 605.6 - Provide electrical cover plates to all outlets, switches and junction boxes where missing.
-Replace missing outlet cover plates.
54. 2ND FLOOR RSS STORE - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cords on signs.
55. 2ND FLOOR RSS STORE - NEC 440.13 - For cord-connected equipment such as refrigerators and freezers, drinking water coolers, and beverage dispensers, a separable connector or an attachment plug and receptacle shall be permitted to serve as the disconnecting means. The appliance must plug directly into a permanent outlet.
-Remove all extension cords and all appliances shall plug directly into an outlet.
56. 2ND FLOOR RSS STORE - NEC 110-26 - Provide and maintain a minimum of 36 inches clearance in front of all electrical panels.
-Remove items in front of the panels.
57. 2ND FLOOR RSS STORE - NEC 400-8 Remove the flexible cords where installed in raceways.
-Remove unapproved outlet and contact a licensed electrician to provide an approved outlet. This work will require a permit.
58. 2ND FLOOR RSS STORE - MSFC 3003.3.3- Secure the pressurized cylinders.
-Secure CO2 cylinders.
59. 2ND FLOOR STE 200 - MSFC 1003.3.1.8 - Remove unapproved locks from the exit doors. The door must be openable from the inside without the use of keys or special knowledge or effort.
-Remove double cylinder lock from front door.
60. 2ND FLOOR STE 211 HEALTH PARTNERS JANITORS CLOSET - NFPA 13 6.2.7.2 – Escutcheons and cover plates shall be part of a listed sprinkler assembly.
-Replace missing escutcheon.

61. 2ND FLOOR STE 211 HEALTH PARTNERS JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
62. 2ND FLOOR STE 211 HEALTH PARTNERS STORAGE CLOSET - NFPA 13 6.2.7.2
– Escutcheons and cover plates shall be part of a listed sprinkler assembly.
-Replace missing escutcheons.
63. 2ND FLOOR STE 211 HEALTH PARTNERS - BACK EXIT - NFPA 13 (2002)
8.6.3.4.1 - Relocate the sprinklers so that they are at least 6' apart.
-Contact a licensed sprinkler contractor to provide proper coverage. This work will require a permit.
64. 2ND FLOOR STE 255 BNSF - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
65. 2ND FLOOR STE 256 CLOSET - NFPA 13 (2002) 4.1 - Provide sprinkler coverage in the missing room or area.
-Contact a licensed sprinkler contractor to provide proper coverage. This work will require a permit.
66. 2ND FLOOR STORAGE AREA ROOM 1 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
67. 2ND FLOOR STORAGE AREAS - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
68. 2ND FLOOR VAULT - MSFC 901.4.4 - Any device that has the physical appearance of life safety or fire protection equipment but that does not perform that life safety or fire protection function shall be prohibited.
-Remove all components to the vault suppression system that is out of service. Remove all and any storage in vault.
69. 3RD FLOOR FAN ROOM - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
70. 3RD FLOOR JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Replace access panel by men's restroom.
71. 3RD FLOOR STE 350 - SERVER ROOM ACROSS FROM BREAK ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.

72. 3RD FLOOR STE 350 SE CUBES - NFPA 13 6.2.7.2 – Escutcheons and cover plates shall be part of a listed sprinkler assembly.
-Replace missing escutcheons.
73. 6TH FLOOR 6GTRA - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cord.
74. 6TH FLOOR 6N3 - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cord on TV.
75. 6TH FLOOR JANITORS CLOSET BY MENS RESTROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
76. 6TH FLOOR NE CRAY SERVER CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
77. 6TH FLOOR NW ELECTRICAL - MSFC 901.6 - The fire alarm system must be maintained in a operative condition at all times, replace or repair where defective.
-Remount smoke detector.
78. 6TH FLOOR STORAGE CLOSET BY 161205 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Provide ceiling or remove all storage.
79. 7TH FLOOR FE-25 SUPPRESSION - MSFC 901.6 - Provide required annual inspection and testing of the fire sprinkler system by a licensed fire sprinkler contractor and provide written documentation to this office as proof of compliance. Tags must be maintained on the riser showing the latest date of inspection and testing.
-Provide report.
80. 8TH FLOOR HEALTH PARTNERS - SERVER ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair holes in the wall.
81. 8TH FLOOR HEALTH PARTNERS NE CORNER - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cord on fridge. This appliance shall plug directly into an outlet.
82. 8TH FLOOR PHONE/SERVER ROOM - NFPA 13 (2002) 4.1 - Provide sprinkler coverage in the missing room or area.
-Contact a licensed sprinkler contractor to provide proper coverage. This work will require a permit.

83. 9TH FLOOR MENS RESTROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Patch holes in the wall.
84. 9TH FLOOR NW JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
85. 9TH FLOOR STE 950 - ROOM OFF OF FILE ROOM - NFPA 13 6.2.7.2 – Escutcheons and cover plates shall be part of a listed sprinkler assembly.
-Replace missing escutcheons.
86. 9TH FLOOR STE 950 - SERVER ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Patch holes in ceiling.
87. 9TH FLOOR SW JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
88. ALL FLOORS NORTH FRIEGHT - MSFC 1005.3.2.4 - Provide and maintain stairway identification signs per attached SI-1 information.
89. BASEMENT - SPLC 34.10 (7), 34.33 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tile that was removed for construction of the area.
90. BASEMENT B-72 - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
91. BASEMENT B-72 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair the hole above the door.
92. BASEMENT B1 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair hole above the door.
93. BASEMENT B103 - MSFC 901.6 - Provide required annual inspection and testing of the fire sprinkler system by a licensed fire sprinkler contractor and provide written documentation to this office as proof of compliance. Tags must be maintained on the riser showing the latest date of inspection and testing.
94. BASEMENT B103 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.

95. BASEMENT B103 MAP FILES - NEC 110-26 - Provide and maintain a minimum of 36 inches clearance in front of all electrical panels.
-Remove storage in front of fire panel.
96. BASEMENT B106 - NFPA 13 (2002) 8.6.4.1.1.1 - Relocate the sprinkler heads so that the deflector is between 1 and 12 inches from the ceiling.
-Contact a licensed sprinkler contractor to provide proper coverage or replace missing ceiling grid and tiles. Sprinkler work will require a permit.
97. BASEMENT B106 LOGISTICS STORAGE - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Patch holes in the walls.
98. BASEMENT B34 - MSFC 905.3 - Remove all occupant fire hoses and convert the valves to 2 1/2 inch National Standard Hose Threads.
99. BASEMENT B87 - MSFC 703 - Repair and maintain the required fire resistive construction with approved materials and methods. This work may require a permit(s). Call DSI at (651) 266-9090.
-Repair beam protection.
100. BASEMENT B9 - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cord.
101. BASEMENT B9 - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
102. BASEMENT B93 ELECTRICAL ROOM - MSFC 605.6 - Provide all electrical splices within junction boxes.
103. BASEMENT B94 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Seal holes in the walls.
104. BASEMENT BATHROOM - MSFC 901.6 - Contact a fire sprinkler contractor to replace all painted or damaged fire sprinkler heads. All sprinkler work must be done by a licensed contractor under permit.
-Replace corroded sprinkler head. This work will require a permit.
105. BASEMENT BEAMS - MSFC 703 - Repair and maintain the required fire resistive construction with approved materials and methods. This work may require a permit(s). Call DSI at (651) 266-9090.
106. BASEMENT CLOSET NEAR SW PHONE ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Cover wall or provide a sprinkler head in the closet.

107. BASEMENT COOPER ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Repair holes in the ceiling.
108. BASEMENT FIRE DOOR NEAR B34 - MSFC 703.4 – Fire doors shall be inspected and tested annually to confirm proper operation and full closure. Provide documentation of test.
109. BASEMENT GANDER MOUNTAIN - MSFC 1010.3 - Provide and maintain approved external or internal lighting of the exit sign.
-Replace burnt out light bulbs and or batteries in exit signs.
110. BASEMENT GANDER MOUNTAIN - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
111. BASEMENT GANDER MOUNTAIN - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
112. BASEMENT GANDER MOUNTAIN - NFPA 13 (2002) 8.6.3.4.1 - Relocate the sprinklers so that they are at least 6' apart.
-Contact a licensed sprinkler contractor to provide proper coverage. This work will require a permit.
113. BASEMENT NEAR SW PHONE ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair access panel for wall door.
114. BASEMENT NEAR SW PHONE ROOM - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Repair the holes in the ceiling.
115. BASEMENT SE FREIGHT FIRE DOOR - MSFC 703.4 – Fire doors shall be inspected and tested annually to confirm proper operation and full closure. Provide documentation of test.
116. BASEMENT STORAGE - MSFC 1010.3 - Provide and maintain approved external or internal lighting of the exit sign.
-Replace burnt out light bulbs and or batteries in exit signs.
117. BASEMENT STORAGE - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
118. BASEMENT STORAGE - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.

119. BASEMENT SW JANITORS CLOSET - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair wall and replace access panel.
120. BASEMENT SW PHONE ROOM - NFPA 13 (2002) 4.1 - Provide sprinkler coverage in the missing room or area.
-Contact a licensed sprinkler contractor to provide proper coverage. This work will require a permit.
121. FIRE ALARM REPORT - MSFC 907.20 as amended - Provide required annual maintenance of the fire alarm system by a qualified person and provide written documentation to this office as proof of compliance.
122. MEZZANINE BACK HALL BY STANDPIPE - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair the hole in the walls.
123. MEZZANINE BY STAIRWELL STORAGE - MSFC 605.5.3 - Immediately, discontinue use of frayed, deteriorated, damaged or spliced electrical cords.
-Replace damaged electrical cords.
124. MEZZANINE HALLWAY - MSFC 805.2 - Provide documentation that decorative materials have been treated and maintained with an approved flame retardant or remove decorative materials that do not meet the flame retardant requirements.
-Remove plastic from the walls.
125. MEZZANINE OFFICE AREA - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace missing ceiling tiles.
126. MEZZANINE PROJECTOR ROOM - MSFC 605.5 - Discontinue use of extension cords used in lieu of permanent wiring.
-Remove extension cord from running through the window.
127. MEZZANINE PROJECTOR ROOM - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
128. MEZZANINE RESTROOMS - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the ceiling in an approved manner.
-Replace ceilings with holes in them.
129. MEZZANINE SW EXIT - MSFC 1010.3 - Provide and maintain approved external or internal lighting of the exit sign.
-Replace burnt out light bulbs and or batteries in exit sign.

130. SPRINKLER REPORT - MSFC 901.6 - Provide required annual inspection and testing of the fire sprinkler system by a licensed fire sprinkler contractor and provide written documentation to this office as proof of compliance. Tags must be maintained on the riser showing the latest date of inspection and testing.
131. SUB BASEMENT PIPE CHASE - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair hole in wall.
132. SUB BASEMENT SB40 - MSFC 901.6 - Provide required annual maintenance of the fire extinguishers by a qualified person and tag the fire extinguishers with the date of service.
133. SUB BASEMENT SB72 - MSFC 703 - Repair and maintain the required fire resistive construction with approved materials and methods. This work may require a permit(s). Call DSI at (651) 266-9090.
-Repair beam protection.
134. SUB BASEMENT SB78 - SPLC 34.10 (7), 34.34 (6) - Repair and maintain the walls in an approved manner.
-Repair holes in the walls.

Saint Paul Legislative Code authorizes this inspection and collection of inspection fees. For forms, fee schedule, inspection handouts, or information on some of the violations contained in this report, please visit our web page at: <http://www.stpaul.gov/cofo>

You have the right to appeal these orders to the Legislative Hearing Officer. Applications for appeals may be obtained at the Office of the City Clerk, 310 City Hall, City/County Courthouse, 15 W Kellogg Blvd, Saint Paul MN 55102 Phone: (651-266-8585) and must be filed within 10 days of the date of this order.

If you have any questions, email me at: kris.skow-fiske@ci.stpaul.mn.us or call me at 651-266-8949 between 7:30 a.m. - 9:00 a.m. Please help to make Saint Paul a safer place in which to live and work.

Sincerely,

Kris Skow-Fiske
Fire Inspector

Reference Number 13287

Exhibit B

February 18, 2016

VIA U.S. MAIL

Kris Skow-Fiske
Fire Inspector
City of St. Paul Department of
Safety and Inspections
375 Jackson St., Suite 220
Saint Paul, MN 55101

Re: 180 East 5th St., St. Paul / Ref. #13287

Dear Ms. Skow-Fiske:

I represent Talon First Trust, LLC ("Talon"), which currently owns 180 East 5th Street in St. Paul, MN. As you know, you have been communicating regarding this property with the prior owner, Jackson I, LLC ("Jackson"), through Gary Buckley.

I am writing regarding a correction notice issued by your department on February 6, 2015 to Jackson regarding fireproofing and renovations to the areaway outside the property, which is a public right-of-way owned by the City of St. Paul (the "Areaway"). From speaking to Mr. Buckley and reviewing the various communications related to this notice, it appears that the City of St. Paul has altered its position on this issue on more than one occasion, so I write to seek clarification from you of its current status and the City's position given that this property is owned by Talon.

Based on my investigation of this matter, the relevant facts are as follows: the Areaway at issue is part of the public right-of-way, and as such, adjacent property owners must obtain a permit to encroach upon the Areaway. St. Paul City Ordinance § 134.02. Talon's predecessor and prior owner of 180 East 5th Street, St. Paul-Burlington Limited Partnership, obtained encroachment permits from the City in 1995 to use the Areaway in question. See attached Encroachment Permits. These permits applied to "[Burlington's] successor/s in interest," namely, Jackson and Talon. These permits were subject to St. Paul City Ordinance § 134.12, which provides "in the event it shall become necessary during the term of the permit to remove or relocate the physical property of the permittee located within or upon any of the streets or public rights-of-way...as a result of any public improvement undertaken by or on behalf of the city, the permittee shall, when so advised by the department, remove and relocate its facilities..." On February 8, 2010, Jackson was contacted by the Metropolitan Council regarding the reconstruction of certain portions of downtown St. Paul to accommodate the incoming light rail transit line. Pursuant to this reconstruction, the Metropolitan Council required, on behalf of the City, that Jackson vacate the Areaway and relocate any utilities and other improvements owned by Jackson located

Page 2

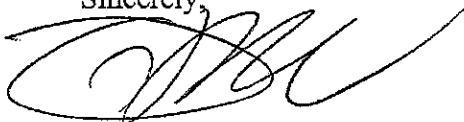
February 18, 2016

therein. *See* attached letter from Richard Rovang, Metropolitan Council Deputy Director. Upon receipt of this letter, Jackson removed all of its property and utilities from the Areaway, as required by the terms of the encroachment permit and St. Paul ordinance. Upon Jackson's abandonment, the Metropolitan Council proceeded to make all necessary improvements and renovations to the Areaway it deemed necessary to accommodate the light rail project. As I understand from your correction notice, the City takes issue with these improvements made by Metropolitan Council to the Areaway for the light rail project.

In summary, Jackson and its successor Talon no longer own or maintain any improvements in the Areaway. As stated above, Jackson removed all of its improvements at its substantial expense after it was instructed to do so by Met Council, as Jackson was legally required to do. All current property and improvements located in the Areaway that the February 6, 2015 notice takes issue with were completed by Metropolitan Council. Since the Areaway is a public right-of-way and Talon does not own the improvements in the Areaway, Talon cannot be legally required to make any additional modifications to this property or the improvements of Metropolitan Council. The obligation to make any modifications to these improvements falls on Metropolitan Council, as owner of the improvements, or the City, as owner of the public right-of-way.

Thank you for your consideration of this matter. I would appreciate a response to my inquiry so my client understands the City's current position.

Sincerely,



Jason Lien

Enclosures

cc: Talon First Trust, LLC
Gary Buckley

lc:4821-6130-9741, v. 2

CERTIFICATION FORM

ENCROACHMENT PERMIT ENC-95-0046

RECORDED
COUNTY OF RAMSEY MN
CERTIFIED ON

AUG 16 3 27 PM '95

LOUISIANA
COUNTY RECORDER
BY *[Signature]* DEPUTY

This instrument is drafted by
City of Saint Paul, Minnesota
Department of Public Works
800 City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102

2883306

The City of Saint Paul, Department of Public Works, hereby grants permission to St. Paul-Burlington Limited Partnership, c/o Frauenshuf Management, the property owner/s at 180 Fifth St. East, and/or their successor/s in interest, to maintain areaways which extends 11 feet 6 inches onto/into the Jackson St. right-of-way for a length of 290 feet, adjacent to 332 - 362 Jackson, adj. to Lots 8, 9, 12, 13, Blk. 2, Aud. Sub. #32, in accordance with the terms of Chapter 134, the Encroachment Permit No. ENC-95-0046, and Approved Plans on file in the " Right-Of-Way Division " of the Department of Public Works.

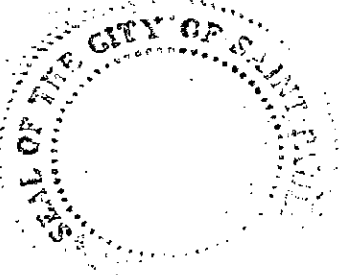
STATE OF MINNESOTA)
COUNTY OF RAMSEY)SS.
CITY OF SAINT PAUL)

I, Darlene Hagen, by authority of the Director of the Department of Public Works for the City of Saint Paul, Minnesota, do hereby certify that the attached permit issued under Chapter 134, "Projections and Encroachments", Permit No. ENC-95-0046 as approved by the Department of Public Works on August 16, 1995, is a true and correct copy of said original and the whole thereof, with the original on file in my office.

WITNESS, my hand and the seal of the City of Saint Paul, Minnesota, this 16th day of August, 1995.

[Signature: Darlene Hagen]

Darlene Hagen
Public Works Records
800 City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102



Instru #	170
Filing fee	1950
Rec copy	
Cer copy	
Initials	DH
Pd by/twt	19

ENCROACHMENT RECORDS
8-16 95

[Signature: P. Bourgen]

1025

Ch. 134 Forms/Certification Form
RETURN TO Dept of Public Works
CITY OF SAINT PAUL

2883306

Saint Paul Department of Public Works APPLICATION AND ENCROACHMENT PERMIT No. ENC-95-100
25 W 4th St. 800 City Hall Annex
Saint Paul Minnesota 55102

ENCROACHMENT ADDRESS: 180 Fifth St. E.

PIN 062822110037 PIN _____

TYPE OF ENCROACHMENT: (areaway, cables, etc.) Areaways

DESCRIBE LOCATION OF ENCROACHMENT: From 332 - 362 Jackson adj Lot 8, 9, 12, & 13 Aud Sub #32, Blk 2

LEGAL DESCRIPTION (If too long attach copy) : Legal must be taken from a copy of your deed, or from your abstract or torrens certificate FROM the Ramsey County Register of Deeds Office, address 350 Ramsey County Government Center West, 50 W. Kellogg Boulevard Saint Paul, Minnesota 55102, Phone Number (612) 266-2050

Auditor's Subdivision No 32 St. Paul, Minn. Ex Burlington Northern Railroad Lease on Floors 5 thru 13 containing 419796 Rentable Sq Ft, the Fol. Lots C & D of Drake's Rearrangement A & In SD Aud Sub No 32, Lots 2 thru Lot 15, Blk 2

Application is hereby made for an "Encroachment Permit" as described above in accordance with the terms of Chapter 134 of the Saint Paul Legislative Code. If this application is approved, the centersigned owner(s) hereby agree to the terms of Chapter 134 of the Saint Paul Legislative Code (copy attached) and with any special provisions which may be attached. All maintenance, removal and liability for the permitted encroachment are the responsibility of the property owner abutting the above referenced legally described property. A notice must be given to the City of Saint Paul, Department of Public Works when said encroachment is eliminated. Amended permit, if approved, replaces the permit previously issued by the City of Saint Paul under:

Ordinance # 7855, Council File # 109081, Dated: 11-02-37, &/or Chapter # 121

OWNER (Fee) Print or Type: St. Paul -Burlington Limited Partnership c/o Palmer Group, Ltd. C/O FRAUENSHUH MANAGEMENT COMPANY, IT'S AGENT

Address: 180 Fifth St. E. #230 St. Paul, MN. 55101-1631

X Signature (Original): [Signature] Phone #: 228-9456 Date: 8/8/95

OWNER (C/D or Other) Print or Type: Same as above

Address: _____

Signature (Original): _____ Phone #: _____ Date: _____

APPROVED BY Darlene Hagen [Signature] Date: 8-16-95
For Director of Public Work

- All other uses _____
- Residential 1, 2, & 3 family _____
- \$30.00 Amended permits _____
- \$19.90 Recording fees: Abstract # _____
- Recording fees : Torrens # _____

\$49.90 Total fee (Make checks payable to : City of Saint Paul)

Owner _____ X
 Contractor _____ -
 Public Works Records _____ X
 Inspector _____ -

To Record Include:
 Certification Form, sheet 1
 Application/Permit Form, sheet 2
 Special Provisions, sheet _____
 Plans (stamped "Approved"), sheet 3
 Copy of Ch. 134, sheet 4-5

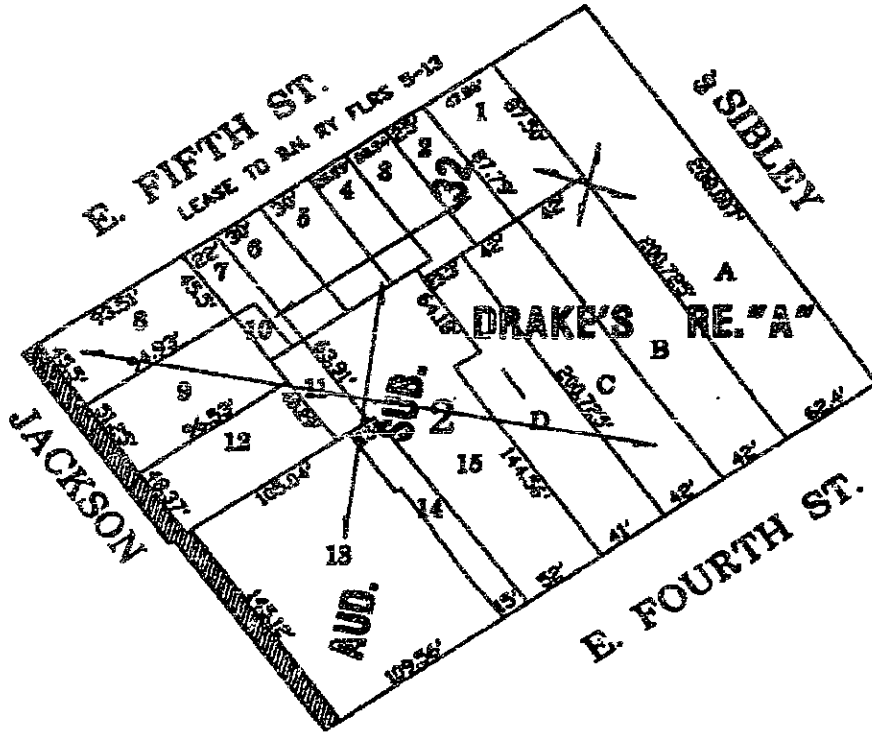
2883306

ENCROACHMENT PERMIT

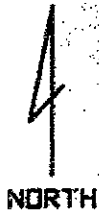
City of St. Paul, Dept. of Public Works

NO: ENC-95-0046

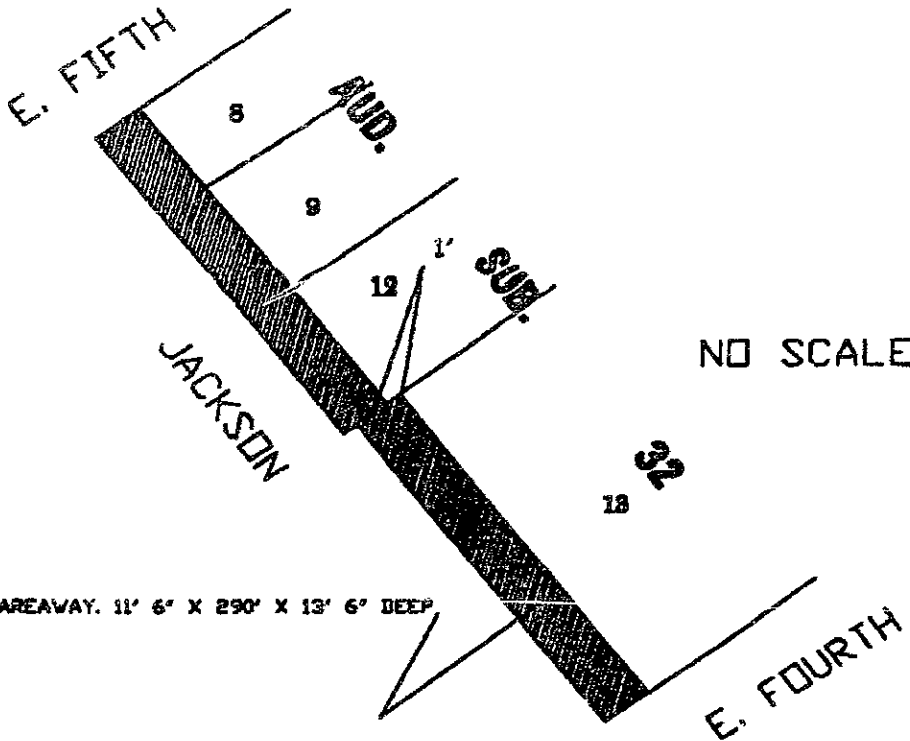
AT #180 E. FIFTH ST.
ADJACENT #332-362 JACKSON
ADJACENT LOTS 8,9,12,13, BLK. 2
AUDITOR'S SUB. 32



City of St. Paul
Dept. of Public Works
July, 28, 1995
Scale: 1=100



AREAWAY
ENCROACHMENTS



APPROVED
EXCEPT IN RED
DEPARTMENT OF PUBLIC WORKS
CITY OF SAINT PAUL

By: Darlene Hagen
Date: 8-16-95

Map Drawn by Mapping Unit

Chapter 134. Projections and Encroachments

Sec. 134.01. Purpose.

[The purpose of this chapter is:]

- (1) To allow use of the public right-of-way by adjacent property owners for purposes that cannot be reasonably satisfied on private property and where it is determined by the director of the department of public works that the area of projection or encroachment cannot be vacated under Chapter 130 of the Legislative Code.
- (2) To protect the health, safety and welfare of the public.
- (3) To protect nearby property owners from hardship or damage.
- (4) To protect other public interests as determined by the director.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.02. Permission required.

No person shall construct and maintain any projection or encroachment within the public right-of-way except with the written permission of the director of the department of public works.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.03. Projection and encroachment defined.

Projection and encroachment is defined as any above or below grade protrusion beyond the property line which extends into, upon, over, under or otherwise occupies any public street, alley, sidewalk, boulevard or right-of-way. Projection and encroachment shall include, but not be limited to, the following: steam lines, conduits, lighting standards, areaways, tunnels, trapdoors, retaining walls, parking bays and nonstandard walks, but shall exclude awnings, business signs and building projections regulated in sections 33.06 and 66.202.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.04. Public works director to issue permit.

The director is authorized to grant permission to owners of abutting property to construct and maintain a projection or encroachment subject to the following conditions, restrictions and payment of fees set forth in this chapter. A certified copy of the permit shall be filed in the office of the Ramsey County Recorder.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.05. Permit application and fees.

Application for permits shall be submitted on forms approved by the director and shall include the following:

- (a) The location, nature, size and purpose of the proposed improvement.
- (b) Plans and specifications as required by the director.

(c) The appropriate fees as established by council resolution.

(d) The application shall be signed by the owner of the abutting property.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.06. Regulations and general conditions.

The director is authorized to enact reasonable rules and regulations, which shall as a minimum include the following:

- (a) All work shall be performed by licensed contractors and in accordance with plans and specifications approved by the director.
- (b) Payment of permit fees, as determined by council resolution, and payment of all additional costs of inspection incurred by the department.
- (c) During construction, the work area shall be guarded by day with suitable barriers and by night with flashing yellow lights to prevent injury or damage to persons or property.
- (d) The permittee shall assume full responsibility for all damages to persons or property arising out of the construction, repair or maintenance of the projection or encroachment.
- (e) All work shall be performed in accordance with all applicable laws or regulations, including obtaining required building permits.
- (f) Materials, methods of construction and location shall be subject to the approval of the director.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.07. Indemnity and hold harmless.

The city, its officers, agents and employees shall be held harmless, indemnified and defended by the owners, its successors or assigns from any and all claims, actions or suits of any character brought as a result of injuries or damages received or sustained by any person, persons or property on account of the construction or maintenance of the projection or encroachment.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.08. Preexisting projections or encroachments without valid permits.

All projections or encroachments existing as of the adoption date of this ordinance [March 23, 1994] which exist without a valid permit from the city shall either be removed and the right-of-way restored at the sole expense of the owner of the adjacent property, or the owner shall make application for a permit in the same manner as if the projection or encroachment were to be newly installed.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.09. Maintenance of the projection or encroachment.

The property owner shall maintain the projection or encroachment in a safe condition and shall, at no cost to the city, repair any damage which may occur during the normal course of city maintenance and/or construction of public facilities within or adjacent to the right-of-way.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.10. Permit revocation.

Any permit may be revoked by the director, upon reasonable written notice, for failure to properly maintain the projection or encroachment in a safe and aesthetic condition, comply with any applicable law or with the conditions of the permit, or where it has been determined by the director that the projection or encroachment may constitute a hazard to the safety or welfare of the public. The notice shall specify the reason(s) for recommending revocation, and in the case of defects or deficiencies, provide a reasonable time to correct them. If the defects or deficiencies are not corrected within a reasonable time, the director shall request that the city council revoke the permit. At the conclusion of the hearing, the city council shall determine whether the permit shall be revoked and the projection or encroachment should be removed and the public right-of-way restored at the expense of the adjacent owner.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.11. Permit expiration.

Any permit issued hereunder shall be in effect for no longer than the life of the building or structure served by the same. Permits shall expire upon completion of demolition of the abutting building, structure or premises. The permittee or its successor in interest shall, concurrently with the demolition of the abutting premises, demolish, fill and seal to the satisfaction of the department of public works any opening serving such premises upon securing a permit therefor from the department of public works. All public right-of-way or property upon or under which such opening is located shall be restored to a condition acceptable to and as required by the department of public works.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.12. Public improvements: removal or relocation.

In the event it shall become necessary during the term of the permit to remove or relocate the physical property of the permittee located within or upon any of the streets or public rights-of-way because of interference or use by the city or as a result of any public improvement undertaken by or on behalf of the city, the permittee shall, when so advised by the department, remove and relocate its facilities without cost to the city and shall place the street or right-of-way in the same condition as existed prior to construction of the projection or encroachment.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.13. Permit not relinquishment of city's rights.

Any permission granted for a projection or encroachment shall not constitute a vacation or abandonment of the rights of the city to the street or right-of-way.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.14. Violation: penalty.

Violation of any of the provisions of this chapter shall be deemed a misdemeanor punishable in accordance with the provisions of section 1.05 of this Code.
(C.F. No. 94-242, § 1, 3-23-94)

CERTIFICATION FORM

ENCROACHMENT PERMIT ENC-95-0045

This instrument is drafted by
City of Saint Paul, Minnesota
Department of Public Works
800 City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102

AUG 16 3 27 PM '95

COURT RECORDER
BY *y* DEPUTY

200007

The City of Saint Paul, Department of Public Works, hereby grants permission to St. Paul-Burlington Limited Partnership, c/o Frauenshuh Management, the property owner/s at 180 Fifth St. East, and/or their successor/s in interest, to maintain easeways and heated walk, which extends 8 feet onto/into the Fourth St. East right-of-way for a length of 232 feet, adjacent to 181 - 189 E. 4th St. adj. Lots 13, 14, 15, Blk. 2, Afd. Sub. #32 and adj. Lots C and D Drake's Re. "A", in accordance with the terms of Chapter 134, the Encroachment Permit No. ENC-95-0045, and Approved Plans on file in the "Right-Of-Way Division" of the Department of Public Works.

STATE OF MINNESOTA)
COUNTY OF RAMSEY)SS.
CITY OF SAINT PAUL)

I, Darlene Hagen, by authority of the Director of the Department of Public Works for the City of Saint Paul, Minnesota, do hereby certify that the attached permit issued under Chapter 134, "Projections and Encroachments", Permit No. ENC-95-0045 as approved by the Department of Public Works on August 16, 1995, is a true and correct copy of said original and the whole thereof, with the original on file in my office.

WITNESS, my hand and the seal of the City of Saint Paul, Minnesota, this 16th day of August, 1995.

Darlene Hagen
Darlene Hagen
Public Works Records
800 City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102



Inst. #	1170
Filing fee	1950
Per copy	
City copy	
Initial	DS
File by	19

8-16 1995
RECORDS

D. Briggs
195

RETURN TO Dept of Public Works
City of St Paul
Ch. 134 Forms/Certification Form

2883307

Saint Paul Department of Public Works APPLICATION AND ENCROACHMENT PERMIT No. ENC- 95-0045
25 W 4th St. 800 City Hall Annex
Saint Paul Minnesota 55102

ENCROACHMENT ADDRESS: 180 Fifth St. E.

PIN 162822110037 PIN _____

TYPE OF ENCROACHMENT: (areaway, cables, etc.) Areaways & Heated Walk

DESCRIBE LOCATION OF ENCROACHMENT: From 161-189 Fourth St. E. adj. Lots 13, 14, 15, Bk 2, Aud. Sub. 63 E
and Lots C & D Drake's Re. "A"

LEGAL DESCRIPTION (If too long attach copy) : Legal must be taken from a copy of your deed, or from your abstract or torrens certificate FROM the Ramsey County Register of Deeds Office, address 800 Ramsey County Government Center West, 50 W. Kellogg Boulevard Saint Paul, Minnesota 55102, Phone Number (612) 286-2050

Auditor's Subdivision No 32 St. Paul, Minn. Ex Burlington Northern Railroad Lease on Floors 5 thru 13 containing 419798 Rentable Sq Ft, the FOI Lots C & D of Drake's Rearrangement A & in SD Aud Sub No 32, Lots 2 thru Lot 15, Bk 2

Application is hereby made for an "Encroachment Permit" as described above in accordance with the terms of Chapter 134 of the Saint Paul Legislative Code. If this application is approved, the undersigned owner(s) hereby agrees to the terms of Chapter 134 of the Saint Paul Legislative Code (copy attached) and with any special provisions which may be attached. All maintenance, removal and liability for the permitted encroachment are the responsibility of the property owner abutting the above referenced legally described property. A notice must be given to the City of Saint Paul, Department of Public Works when said encroachment is eliminated. Amended permit, if approved, replaces the permit previously issued by the City of Saint Paul under:

Ordinance # Page 1389, Council File # 241524, Dated: 12-31-68, s/or Chapter # 121

OWNER (Fee) Print or Type: St. Paul - Burlington Limited Partnership c/o Palmer Group, Ltd. C/O FRAUENSHOH MANAGEMENT COMPANY, IT'S AGENT

Address: 180 5th St. E #230 St. Paul, MN. 55101-1631

X Signature (Original): [Signature] Phone #: 228-9456 Date: 8/2/95

OWNER (C/D or Other) Print or Type: Same as above

Address: _____

Signature (Original): _____ Phone #: _____ Date: _____

APPROVED BY Darlene Hagan Date: Aug 16 95
For Director of Public Work

All other uses
Residential 1, 2, & 3 family
\$30.00 Amended permits
\$19.50 Recording fees: Abstract # _____
\$19.50 Recording fees : Torrens # _____
\$88.00 Total fee (Make checks payable to : City of Saint Paul)

Owner _____ X
Contractor _____
Public Works Records _____ X
Inspector _____

To Hazard Include:
Certification Form, sheet _____ 1
Application/Permit Form, sheet _____ 2
Special Provisions, sheet _____
Plans (stamped "Approved"), sheet _____ 3
Copy of Ch. 134, sheet _____ 4, 5

2883307

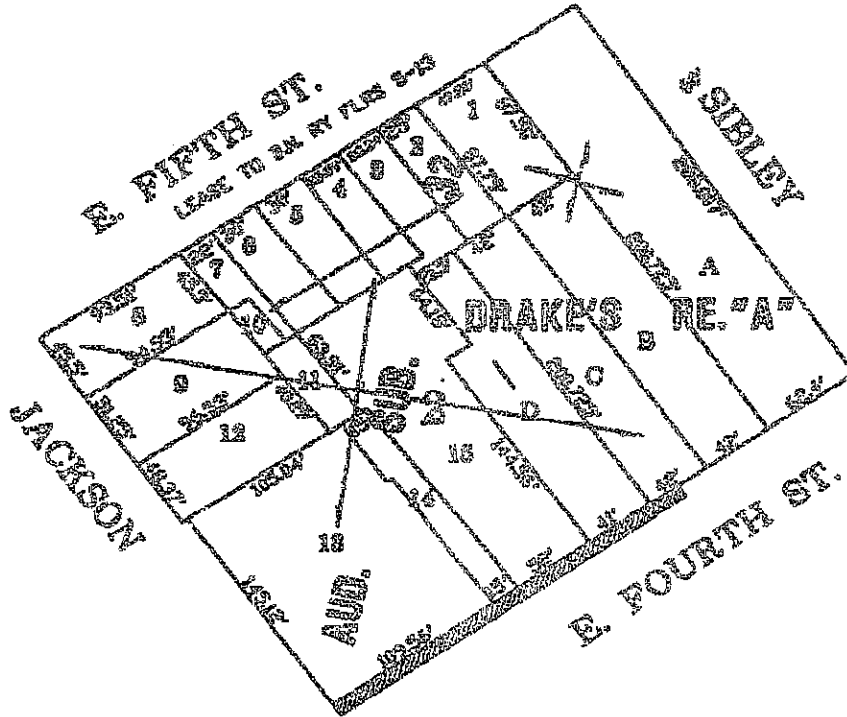
ENCROACHMENT PERMIT
City of St. Paul, Dept. of Public Works

NO: ENC-95-0045

AT #180 E. FIFTH ST.
ADJACENT #161-189 E. FOURTH
ADJACENT LOTS 13, 14, 15, 16, 17
AUDITOR'S SUB. 32
ADJACENT LOTS C & D
DRAKE'S RE. "A"

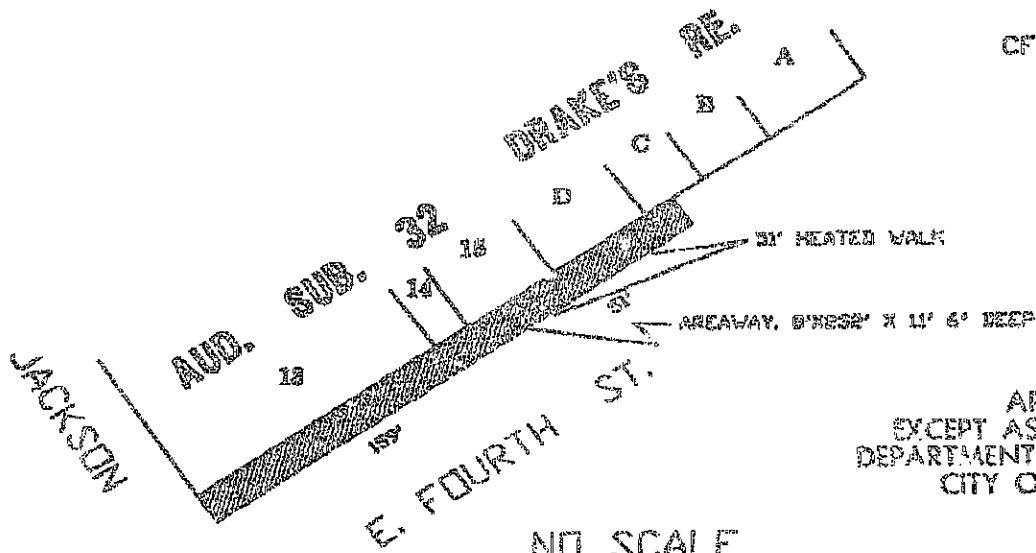
LOT 'D' IS TORRENS

City of St. Paul
Dept. of Public Works
July, 28, 1995
Scale: 1=100



AREAWAY AND
HEATED WALK
ENCROACHMENTS

CF# 241524 12-31-58



NO SCALE

APPROVED
EXCEPT AS SHOWN IN RED
DEPARTMENT OF PUBLIC WORKS
CITY OF SAINT PAUL

By: David J. Hagen
Date: July 16, 1995

Map Drawn by Mapping Unit

Chapter 134. Projections and Encroachments

Sec. 134.01. Purpose.

[The purpose of this chapter is:]

- (1) To allow use of the public right-of-way by adjacent property owners for purposes that cannot be reasonably satisfied on private property and where it is determined by the director of the department of public works that the area of projection or encroachment cannot be vacated under Chapter 130 of the Legislative Code.
- (2) To protect the health, safety and welfare of the public.
- (3) To protect nearby property owners from hardship or damage.
- (4) To protect other public interests as determined by the director.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.02. Permission required.

No person shall construct and maintain any projection or encroachment within the public right-of-way except with the written permission of the director of the department of public works.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.03. Projection and encroachment defined.

Projection and encroachment is defined as any above or below grade protrusion beyond the property line which extends into, upon, over, under or otherwise occupies any public street, alley, sidewalk, boulevard or right-of-way. Projection and encroachment shall include, but not be limited to, the following: steam lines, conduits, lighting standards, areaways, tunnels, trapdoors, retaining walls, parking bays and nonstandard walks, but shall exclude awnings, business signs and building projections regulated in sections 32.08 and 36.202.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.04. Public works director to issue permit.

The director is authorized to grant permission to owners of abutting property to construct and maintain a projection or encroachment subject to the following conditions, restrictions and payment of fees set forth in this chapter. A certified copy of the permit shall be filed in the office of the Ramsey County Recorder.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.05. Permit application and form.

Application for permits shall be submitted on forms approved by the director and shall include the following:

- (a) The location, nature, size and purpose of the proposed improvement.
- (b) Plans and specifications as required by the director.

(c) The appropriate fees as established by council resolution.

(d) The application shall be signed by the owner of the abutting property.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.06. Regulations and general conditions.

The director is authorized to enact reasonable rules and regulations, which shall at a minimum include the following:

(a) All work shall be performed by licensed contractors and in accordance with plans and specifications approved by the director.

(b) Payment of permit fees, as determined by council resolution, and payment of all additional costs of inspection incurred by the department.

(c) During construction, the work area shall be guarded by day with suitable barriers and by night with flashing yellow lights to prevent injury or damage to persons or property.

(d) The permittee shall assume full responsibility for all damages to persons or property arising out of the construction, repair or maintenance of the projection or encroachment.

(e) All work shall be performed in accordance with all applicable laws or regulations, including obtaining required building permits.

(f) Materials, methods of construction and location shall be subject to the approval of the director.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.07. Indemnity and hold harmless.

The city, its officers, agents and employees shall be held harmless, indemnified and defended by the owner, its successors or assigns from any and all claims, actions or suits of any character brought as a result of injuries or damages received or sustained by any person, persons or property as a result of the construction or maintenance of the projection or encroachment.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.08. Prohibiting projections or encroachments without valid permits.

All projections or encroachments existing as of the adoption date of this ordinance (March 23, 1994) which exist without a valid permit from the city shall either be removed and the right-of-way restored at the sole expense of the owner of the adjacent property, or the owner shall make application for a permit in the same manner as if the projection or encroachment were to be newly installed.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.05. Maintenance of the projection or encroachment.

The property owner shall maintain the projection or encroachment in a safe condition and shall, at no cost to the city, repair any damage which may occur during the normal course of city maintenance and/or construction of public facilities within or adjacent to the right-of-way.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.10. Permit revocation.

Any permit may be revoked by the director, upon reasonable written notice, for failure to properly maintain the projection or encroachment in a safe and aesthetic condition, comply with any applicable law or with the conditions of the permit, or where it has been determined by the director that the projection or encroachment may constitute a hazard to the safety or welfare of the public. The notice shall specify the reason(s) for recommending revocation, and in the case of defects or deficiencies, provide a reasonable time to correct them. If the defects or deficiencies are not corrected within a reasonable time, the director shall request that the city council revoke the permit. At the conclusion of the hearing, the city council shall determine whether the permit shall be revoked and the projection or encroachment should be removed and the public right-of-way restored at the expense of the adjacent owner.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.11. Permit expiration.

Any permit issued hereunder shall be in effect for no longer than the life of the building or structure served by the same. Permits shall expire upon completion of demolition of the abutting building, structure or premises. The permittee or its successor in interest shall, concurrently with the demolition of the abutting premises, demolish, fill and seal to the satisfaction of the department of public works any opening serving such premises upon securing a permit therefor from the department of public works. All public right-of-way or property upon or under which such opening is located shall be restored to a condition acceptable to and as required by the department of public works.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.12. Public improvements: removal or relocation.

In the event it shall become necessary during the term of the permit to remove or relocate the physical property of the permittee located within or upon any of the streets or public rights-of-way because of interference or use by the city or as a result of any public improvement undertaken by or on behalf of the city, the permittee shall, when so advised by the department, remove and relocate its facilities without cost to the city and shall place the street or right-of-way in the same condition as existed prior to construction of the projection or encroachment.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.13. Permit not relinquishment of city's rights.

Any permission granted for a projection or encroachment shall not constitute a vacation or abandonment of the rights of the city to the street or right-of-way.
(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.14. Violation: penalty.

Violation of any of the provisions of this chapter shall be deemed a misdemeanor punishable in accordance with the provisions of section 1.05 of this Code.
(C.F. No. 94-242, § 1, 3-23-94)

6.



540 Fairview Ave North, Suite 200, St. Paul, MN 55104
T 651.602.1000 F 651.602.1920 (website)

February 8, 2010

Julie Bauch
180 E. 5th Street /Jackson One, LLC
St. Paul, MN 55101

Subject: 180 E. 5th Street Areaway

Dear Ms. Bauch,

The Central Corridor Project Office is continuing the reconstruction efforts on Fourth Street in downtown Saint Paul to accommodate the installation of a light rail transit line. This will include the reconstruction of the sidewalk on the north side of Fourth Street between Jackson Street and Sibley Street adjacent to your building at 180 E. 5th Street.

Project office staff has met with you numerous times over the past year to discuss and plan for impacts to the areaway located under this sidewalk. It is our understanding that you, as managers of building at 180 E. 5th Street, desire to keep this areaway open and in place after construction.

In order to accommodate the CCLRT construction, you will need to relocate any utilities located within the areaway that are in conflict with the proposed new Overhead Catenary Pole foundations and/or street light connections prior to April 15th, 2010. The current Fourth Street plans also include the removal and replacement of the existing sidewalk which includes the areaway roof. Any utilities connected to the areaway roof will need to be relocated or temporarily supported in order to accommodate the new roof by April 15th as well.

You will be required to assess and abate any regulated materials (e.g. asbestos containing materials, lead paint, mercury bulbs, etc.) that will be disturbed by your utility relocation.

If you have any questions or concerns, please give me a call at 651-602-1941.

Sincerely,

A handwritten signature in black ink that reads "Richard Rovang". The signature is written in a cursive style.

Richard Rovang
Deputy Director - Design and Construction

cc: CCPO DMO
Jim Alexander
Kevin Ryan
Dan Soler
Chris Weyer
Karlene French

7.

Gary Buckley

From: Happel, Dana [dana.happel@metc.state.mn.us]
Sent: Tuesday, March 02, 2010 10:09 AM
To: 'julie@bauchenterprises.com'; Gary Buckley
Subject: Areaway letter
Attachments: Areaway Letter.pdf; Projections and encroachments.pdf

Julie and Gary,
I have attached a letter that was sent to you on February 8, 2010 in addition the information regarding the projections and encroachments. I hope this information is sufficient for the owner. Please review the information and contact me if he/she would like more information. Thanks.
Dana

Chapter 134. Projections and Encroachments

Sec. 134.01. Purpose.

[The purpose of this chapter is:]

- (1) To allow use of the public right-of-way by adjacent property owners for purposes that cannot be reasonably satisfied on private property and where it is determined by the director of the department of public works that the area of projection or encroachment cannot be vacated under Chapter 130 of the Legislative Code.
- (2) To protect the health, safety and welfare of the public.
- (3) To protect nearby property owners from hardship or damage.
- (4) To protect other public interests as determined by the director.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.02. Permission required.

No person shall construct and maintain any projection or encroachment within the public right-of-way except with the written permission of the director of the department of public works.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.03. Projection and encroachment defined.

Projection and encroachment is defined as any above or below grade protrusion beyond the property line which extends into, upon, over, under or otherwise occupies any public street, alley, sidewalk, boulevard or right-of-way. Projection and encroachment shall include, but not be limited to, the following: steam lines, conduits, lighting standards, areaways, tunnels, trapdoors, retaining walls, parking bays and nonstandard walks, but shall exclude awnings, business signs and building projections regulated in sections 33.08 and 66.202.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.04. Public works director to issue permit.

The director is authorized to grant permission to owners of abutting property to construct and maintain a projection or encroachment subject to the following conditions, restrictions and payment of fees set forth in this chapter.

(C.F. No. 94-242, § 1, 3-23-94; C.F. No. 06-823, § 1, 9-27-06)

Sec. 134.05. Permit application and fees.

Application for permits shall be submitted on forms approved by the director and shall include the following:

- (a) The location, nature, size and purpose of the proposed improvement.

- (b) Plans and specifications as required by the director.
- (c) The appropriate fees as established by council resolution.
- (d) The application shall be signed by the owner of the abutting property.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.06. Regulations and general conditions.

The director is authorized to enact reasonable rules and regulations, which shall as a minimum include the following:

- (a) All work shall be performed by licensed contractors and in accordance with plans and specifications approved by the director.
- (b) Payment of permit fees, as determined by council resolution, and payment of all additional costs of inspection incurred by the department.
- (c) During construction, the work area shall be guarded by day with suitable barriers and by night with flashing yellow lights to prevent injury or damage to persons or property.
- (d) The permittee shall assume full responsibility for all damages to persons or property arising out of the construction, repair or maintenance of the projection or encroachment.
- (e) All work shall be performed in accordance with all applicable laws or regulations, including obtaining required building permits.
- (f) Materials, methods of construction and location shall be subject to the approval of the director.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.07. Indemnity and hold harmless.

The city, its officers, agents and employees shall be held harmless, indemnified and defended by the owners, its successors or assigns from any and all claims, actions or suits of any character brought as a result of injuries or damages received or sustained by any person, persons or property on account of the construction or maintenance of the projection or encroachment.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.08. Preexisting projections or encroachments without valid permits.

All projections or encroachments existing as of the adoption date of this ordinance [March 23, 1994,] which exist without a valid permit from the city shall either be removed and the right-of-way restored at the sole expense of the owner of the adjacent property, or the owner shall make application for a permit in the same manner as if the projection or encroachment were to be newly installed.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.09. Maintenance of the projection or encroachment.

The property owner shall maintain the projection or encroachment in a safe condition and shall,

at no cost to the city, repair any damage which may occur during the normal course of city maintenance and/or construction of public facilities within or adjacent to the right-of-way.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.10. Permit revocation.

Any permit may be revoked by the director, upon reasonable written notice, for failure to properly maintain the projection or encroachment in a safe and aesthetic condition, comply with any applicable law or with the conditions of the permit, or where it has been determined by the director that the projection or encroachment may constitute a hazard to the safety or welfare of the public. The notice shall specify the reason(s) for recommending revocation, and in the case of defects or deficiencies, provide a reasonable time to correct them. If the defects or deficiencies are not corrected within a reasonable time, the director shall request that the city council revoke the permit. At the conclusion of the hearing, the city council shall determine whether the permit shall be revoked and the projection or encroachment should be removed and the public right-of-way restored at the expense of the adjacent owner.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.11. Permit expiration.

Any permit issued hereunder shall be in effect for no longer than the life of the building or structure served by the same. Permits shall expire upon completion of demolition of the abutting building, structure or premises. The permittee or its successor in interest shall, concurrently with the demolition of the abutting premises, demolish, fill and seal to the satisfaction of the department of public works any opening serving such premises upon securing a permit therefor from the department of public works. All public right-of-way or property upon or under which such opening is located shall be restored to a condition acceptable to and as required by the department of public works.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.12. Public improvements; removal or relocation.

In the event it shall become necessary during the term of the permit to remove or relocate the physical property of the permittee located within or upon any of the streets or public rights-of-way because of interference or use by the city or as a result of any public improvement undertaken by or on behalf of the city, the permittee shall, when so advised by the department, remove and relocate its facilities without cost to the city and shall place the street or right-of-way in the same condition as existed prior to construction of the projection or encroachment.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.13. Permit not relinquishment of city's rights.

Any permission granted for a projection or encroachment shall not constitute a vacation or abandonment of the rights of the city to the street or right-of-way.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.14. Violation; penalty.

Violation of any of the provisions of this chapter shall be deemed a misdemeanor punishable in accordance with the provisions of section 1.05 of this Code.

(C.F. No. 94-242, § 1, 3-23-94)