

A SUBSTITUTE RESOLUTION

01-R-1792

BY COUNCILMEMBER DERRICK BOAZMAN

A RESOLUTION AUTHORIZING THE LEASE OF AIR RIGHTS TO TURNER BROADCASTING SYSTEM, INC. (TBS) IN CONNECTION WITH TBS' PROPOSED DEVELOPMENT OF AN OFFICE TOWER AND RETAIL COMPLEX AT THE INTERSECTION OF MARIETTA STREET AND CENTENNIAL OLYMPIC BOULEVARD AND SETTING FORTH CERTAIN CONDITIONS WHICH SHALL BE CONTAINED IN SAID LEASE; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to the Participation Agreement dated November 1, 1996 regarding the development of Phillips Arena, Turner Broadcasting System, Inc. (TBS) has the right to lease the air rights above the publicly financed parking deck, from the City of Atlanta-Fulton County Recreation Authority (the Authority) at no additional fee or other compensation; and

WHEREAS, TBS is contemplating leasing said air rights from the Authority and thereafter assigning its leasehold interest in said air rights to the Fulton County Development Authority or some other tax-exempt entity; and

WHEREAS, because the assignment of said air rights by TBS in a manner that would negatively impact the City's ability to issue and service the debt related to tax increment bonds in the Westside Tax Allocation District wherein the TBS Project is located, the City desires to exercise control over the manner in which the air rights may be assigned; and

WHEREAS, it is in the best interest of the City to maintain the authority to authorize any action, with respect to the air rights, that results in a negative impact on the



City of Atlanta property tax digest.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES

AS FOLLOWS:

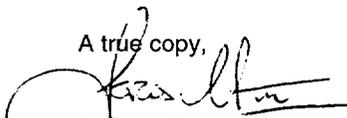
SECTION 1: The City of Atlanta-Fulton County Recreation Authority (AFRCA) is authorized to lease the air rights above the publicly financed parking deck to TBS.

SECTION 2: Any lease from AFRCA to TBS shall include the following provision:

8.1 Assignment by TBS

(a) TBS shall have the right to assign the Leasehold Estate under this Lease Agreement, in whole or in part, with the consent of the Authority, such consent not to be unreasonably withheld, conditioned or delayed. The Authority shall promptly execute and deliver such documents and instruments as TBS or any assignee of the Leasehold Estate under this Lease Agreement shall reasonably request to evidence such assignment of the Leasehold Estate under this Lease Agreement. Notwithstanding the foregoing, TBS may, without the consent of the Authority, (i) assign or sublease the Leasehold Estate under this Lease Agreement in whole or in part, to which substantially all of TBS' assets, stock or other equity interest may be transferred, or to a corporation or entity which controls, is controlled by or is under common control with TBS (a "Related Entity"), (ii) permit any Related Entity to use the Leased Assets or any part thereof but only for so long as said occupant continues to be a Related Entity, or (iii) assign the Leasehold Estate under this Lease Agreement in connection with or pursuant to (1) a Leasehold Mortgage, (2) a sale/leaseback transaction, (3) a synthetic lease" transaction or (4) any other financing arrangement; provided however TBS shall obtain the approval of the City of Atlanta as to any financing arrangement or any other agreement that reduce or otherwise lessen any ad valorem taxes which would otherwise be payable to the City of Atlanta with respect to the Project Improvements; provided further that any financing arrangements involving a public development authority shall be first presented to the Atlanta Development Authority (ADA) for action by the ADA Board.

SECTION 3: All resolutions or parts of resolutions in conflict herewith are hereby rescinded.

A true copy,

Deputy Clerk

ADOPTED as amended by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

DEC 03, 2001

DEC 12, 2001

ARTICLE VIII

ASSIGNMENT AND SPACE LEASES

8.1 Assignment by TBS.

(a) TBS shall have the right to assign the Leasehold Estate under this Lease Agreement, in whole or in part, with the consent of the Authority, such consent not to be unreasonably withheld, conditioned or delayed. The Authority shall promptly execute and deliver such documents and instruments as TBS or any assignee of the Leasehold Estate under this Lease Agreement shall reasonably request to evidence such assignment of the Leasehold Estate under this Lease Agreement. Notwithstanding the foregoing, TBS may, without the consent of the Authority, (i) assign or sublease the Leasehold Estate under this Lease Agreement, in whole or in part, to a corporation or entity into or with which TBS shall be merged or consolidated or to which substantially all of TBS' assets, stock or other equity interest may be transferred, or to a corporation or entity which controls, is controlled by or is under common control with TBS (a "Related Entity"), (ii) permit any Related Entity to use the Leased Assets or any part thereof but only for so long as said occupant continues to be a Related Entity, or (iii) assign the Leasehold Estate under this Lease Agreement in connection with or pursuant to (1) a Leasehold Mortgage, (2) a sale/leaseback transaction, (3) a "synthetic" Lease "synthetic lease" transaction or (4) ~~other similar~~ (4) any other financing arrangement; provided, however, TBS shall obtain the approval of the City of Atlanta as to any financing arrangement that reduces or otherwise lessens any ad valorem taxes which would otherwise be payable to the City of Atlanta with respect to the Project Improvements.

(b) Any assignee of the Leasehold Estate under this Lease Agreement (an "Assignee") shall succeed to the Leasehold Estate under this Lease Agreement, subject, however, to all duties, covenants, and obligations of TBS under this Lease Agreement arising out of or in connection with events occurring on or after (but not before) the effective date of said assignment. Upon an assignment by TBS of the entire Leasehold Estate under this Lease Agreement (or upon any further transfer by an Assignee) and upon such Assignee's due execution and delivery to the Authority of such Assignee's written assumption of all duties, covenants, and obligations of TBS under this Lease Agreement arising out of or in connection with events occurring on or after (but not before) the effective date of said assignment, TBS (or said Assignee) shall be released from any liabilities, duties, covenants, or obligations under this Lease Agreement arising out of or in connection with events occurring on or after the effective date of said assignment (but not from any liabilities, duties, covenants, or obligations under this Lease Agreement arising out of or in connection with events occurring before the effective date of said assignment) of the Leasehold Estate under this Lease Agreement; provided, however, that the provisions of this Section 8.1(b) pertaining to the release of TBS shall not apply to (i) Leasehold Mortgagees, as to which the provisions of Section 7.4 shall govern, or (ii) an assignment by TBS to a Related Entity, in which event TBS shall remain primarily liable for the Related Entity's liabilities, duties, covenants and obligations arising under this Lease Agreement.

provided further that any financing arrangements involving a public development authority shall be first presented to the Atlanta Development Authority (ADA) for action by the ADA Board.

RCS# 3383
12/04/01
12:38 AM

Atlanta City Council

Regular Session

01-R-1792 Objection to assignment of air rights by
Turner Broadcasting System to Fulton Co.
ADOPT/SUB/AMEND

YEAS: 12
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

N McCarty	NV Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	NV Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

01-~~R~~-1792
(Do Not Write Above This Line)

A RESOLUTION

BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

A RESOLUTION EXPRESSING THE CITY OF ATLANTA'S OBJECTION TO THE ASSIGNMENT OF AIR RIGHTS BY TURNER BROADCASTING SYSTEM, INC. (TBS) PURSUANT TO AN AIR RIGHTS LEASE WITH THE CITY OF ATLANTA-FULTON COUNTY RECREATION AUTHORITY TO THE FULTON COUNTY DEVELOPMENT AUTHORITY OR TO ANY OTHER TAX-EXEMPT ENTITY IN CONNECTION WITH TBS PROPOSED DEVELOPMENT OF AN OFFICE TOWER AND RETAIL COMPLEX AT THE INTERSECTION OF MARIETTA STREET AND CENTENNIAL OLYMPIC BOULEVARD, BECAUSE OF THE SEVERE NEGATIVE FINANCIAL IMPACT WHICH SUCH AN ASSIGNMENT WOULD HAVE UPON THE CITY'S ABILITY TO ISSUE TAX INCREMENT BONDS FOR THE WESTSIDE TAX ALLOCATION DISTRICT (IN WHICH THE TBS SITE IS LOCATED) THEREBY SIGNIFICANTLY DIMINISHING THE CITY'S DEVELOPMENT EFFORTS FOR THE AREA WITH REGARD TO THE INFRASTRUCTURE IMPROVEMENTS WHICH ARE TO BE FUNDED WITH THE PROCEEDS OF SAID BONDS AND FOR OTHER PURPOSES.

As Amended

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 11/05/01

Referred To: CD/HR

Date Referred

Referred To:

Date Referred

Referred To:

ADOPTED BY
DEC 03 2001

COUNCIL

First Reading

Committee _____
Date _____
Chair _____
Referred to _____

Committee CD/HR

Date 11/28/01

Chair Charles H. Jones

Action: Fav. Adv. Hold (see rev. side)

Other: No Recommendation

Members: _____

Refer To _____

Committee CD/HR

Date 11/3/01

Chair Charles H. Jones

Action: Fav. Adv. Hold (see rev. side)

Other: No Recommendation

Members: _____

Refer To _____

Committee CD/HR

Date 11/14/01

Chair _____

Action: Fav. Adv. Hold (see rev. side)

Other: _____

Members: _____

Refer To _____

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

CERTIFIED
DEC 3 2001
ATLANTA CITY COUNCIL PRESIDENT
Ronald A. Parker

CERTIFIED
DEC 03 2001

[Signature]
DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 12 2001

WITHOUT SIGNATURE
BY OPERATION OF